BERMUDA

CORPORATE INCOME TAX ACT 2023

2023 : 35

TABLE OF CONTENTS

PART 1
PRELIMINARY

1 Citation
2 Interpretation
3 Regulations

PART 2
CORPORATE INCOME TAX: CHARGING PROVISIONS

4 Imposition of corporate income tax
5 Calculation of net taxable income
6 Determination of tax loss carryforward deduction, net taxable loss, etc.
7 De minimis exemption

PART 3
IN SCOPE ENTITIES: DETERMINATION

8 Definition of Bermuda Constituent Entity Group
9 Definition of Bermuda Constituent Entity
10 Definition of excluded entity
11 Definition of In Scope MNE Group
12 Multi-Parented MNE Group
13 MNE Group with a limited international footprint
14 Determining location of an entity
15 Fiscal transparency classification
15A Changes in Bermuda Constituent Entity Status during a fiscal year

PART 4
TAX CREDITS

16 Foreign tax credits
17 Adjusted creditable foreign taxes
18 Allocation of adjusted creditable foreign taxes
19 Qualified refundable tax credits *[repealed]*

PART 5
TAXABLE INCOME OR LOSS

20 Definition of taxable income or loss
21 Computation of financial accounting net income or loss
22 Permanent establishments
23 Bermuda flow-through entities
24 Non-Bermuda fiscally transparent entities owned by Bermuda Constituent Entities
25 Bermuda fiscally transparent entities owned by Bermuda Constituent Entities

PART 6
TAXABLE ADJUSTMENTS

26 General principles applicable to adjustments
27 Adjustments to financial accounting net income or loss
28 Prior period errors and changes in accounting principles
29 Adjustments due to IFRS 17 and LDTI
30 Stock-based compensation
31 Insurance company adjustments
32 Additional tier one capital adjustments
33 Economic transition adjustments
34 Matching adjustments
35 Realisation principle election
36 International shipping income exclusion
37 Transfer pricing requirements

PART 7
ALLOCATION OF TAXABLE INCOME OR LOSS

38 Allocation for flow-through entities that are ultimate parent entities
39 Investment entities
40 Investment entity and insurance investment entity mark-to-market election
41 Taxable distribution method

PART 8
CORPORATE RESTRUCTURING

42 Transfer of assets and liabilities
43 Qualifying reorganisation
44 Non-qualifying gain or loss
45 Elective recognition of gain or loss and use of fair value of assets and liabilities
46 Bermuda Constituent Entities joining and leaving an MNE Group

PART 8A
CIVIL PENALTIES

46A Interest to be chargeable
46B Power to impose civil penalties
46C Failure to register
46D Failure to file return
46E Failure to accurately state tax on a return
46F Failure to pay tax when due

PART 8B
CRIMINAL PENALTIES

46G Offences by body corporate and other entities
46H Deliberate failure to file return
46I Tax Evasion
46J Application of civil and criminal penalties

PART 9
MISCELLANEOUS

47 Conversion of Foreign Currency
48 Appeal to Supreme Court
49 Elections prior to commencement date
49A Power to permit a revocation of an election
50 Guidance
50A Establishment of tax refund reserve fund

PART 10
FINAL PROVISIONS

51 Consequential amendments
52 Regulations: consequentials and transitionals
53 Commencement

WHEREAS it is expedient to make provision for the imposition of a corporate income tax on certain Bermuda businesses forming part of large multi-national groups to maintain the attractiveness and competitiveness of Bermuda as a leading financial centre;

Be it enacted by The King'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:

PART 1

PRELIMINARY

Citation

1 This Act may be cited as the Corporate Income Tax Act 2023.

Interpretation

2 (1) In this Act, unless the context otherwise requires—

"acceptable financial accounting standard" means International Financial Reporting Standards (IFRS) or the generally accepted accounting principles of Australia, Brazil, Canada, Member States of the European Union, Member States of the European Economic Area, Hong Kong (China), Japan, Mexico, New Zealand, the People's Republic of China, the Republic of India, the Republic of Korea, Russia, Singapore, Switzerland, the United Kingdom, and the United States of America;

"accrued substance-based tax credit benefit" has the meaning given to that term in section 6 of the Tax Credits Act;

"additional tier one capital" means an instrument or security of whatever description issued by a constituent entity pursuant to prudential regulatory requirements applicable to the banking or insurance sector that is convertible to equity or written down if a pre-specified trigger event occurs and that has other features which are designed to aid loss absorbency in the event of a financial crisis;

"adjusted creditable foreign taxes" means creditable foreign taxes adjusted in accordance with section 17;

"Agency" means the Corporate Income Tax Agency established pursuant to the CIT Agency Act;

"annual election" means an election made by or on behalf of a Bermuda Constituent Entity that, once made, shall apply for the fiscal year in respect of which the election is made and all subsequent fiscal years, unless and until the election is modified or revoked;

"approved financial accounting standard" means—

(a) an acceptable financial accounting standard;

(b) Bermuda statutory accounting principles, being the accounting principles used in statutory financial statements prepared by an insurer licensed in Bermuda in accordance with the requirements of the Bermuda Monetary Authority for each fiscal year;

(c) U.S. statutory accounting principles being the statutory accounting principles detailed within the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual, subject to state variations which may arise in accordance with prescribed or permitted accounting practices; or

(d) such other financial accounting standards as may be prescribed by the Minister by Notice published in the Gazette;

"arm's length principle" means the principle under which transactions between constituent entities must be recorded by reference to the conditions that

would have been obtained between independent enterprises in comparable transactions and under comparable circumstances;

"asymmetric foreign currency gains or losses" means foreign currency gains or losses of an entity whose accounting and tax functional currencies are different and that are—

(a) included in the computation of a Bermuda Constituent Entity's—

(i) financial accounting net income or loss and attributable to fluctuations in the exchange rate between its accounting functional currency and its tax functional currency;

(ii) taxable income or loss and attributable to fluctuations in the exchange rate between its accounting functional currency and its tax functional currency;

(iii) financial accounting net income or loss and attributable to fluctuations in the exchange rate between a third foreign currency and its accounting functional currency; and

(b) attributable to fluctuations in the exchange rate between a third foreign currency and its tax functional currency, whether or not such foreign currency gain or loss is included in taxable income,

provided for the purposes of this definition, the tax functional currency is the functional currency used to determine the Bermuda Constituent Entity's taxable income, the accounting functional currency is the functional currency used to determine the Bermuda Constituent Entity's financial accounting net income or loss and a third foreign currency is a currency that is not the Bermuda Constituent Entity's tax functional currency or accounting functional currency;

"authorised accounting body" means a body with legal authority in a jurisdiction to prescribe, establish, or accept accounting standards for financial reporting purposes;

"authorised financial accounting standard" means, in respect of an entity, a set of generally acceptable accounting principles permitted by an authorised accounting body in the jurisdiction where that entity is located;

"Bermuda Constituent Entity" has the meaning given to that term in section 9;

"Bermuda Constituent Entity Group" has the meaning given to that term in section 8;

"Bermuda Corporate Income Tax Return"*[Repealed by 2026 : 25 s. 2]*

"Bermuda Permanent Establishment" means a fixed place of business in Bermuda through which the business of an entity which is not a Bermuda Tax Resident Entity is wholly or partly carried on as determined in accordance with Article 5 of the OECD Model Tax Convention;

"Bermuda source income" means—

(a) interest received from an entity incorporated or organised in Bermuda, or an individual who ordinarily resides in Bermuda;

(b) dividends received from an entity incorporated or organised in Bermuda;

(c) rents or royalties from the use of real or personal property located in Bermuda, or where the place of permitted use of the property is Bermuda;

(d) income from a disposition of real property located in Bermuda; or

(e) underwriting income from issuing or reinsuring any insurance or annuity contract in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of Bermuda;

"Bermuda Tax Resident Entity" means an entity that is incorporated, formed or organised in Bermuda, unless the entity is tax resident in another jurisdiction under the laws of that jurisdiction based on its location of management and control;

"branch exemption election" means an annual election made by the Filing Bermuda Constituent Entity to allocate financial accounting net income or loss of a Bermuda Constituent Entity to a specific permanent establishment through which the business of a Bermuda Constituent Entity is carried out, and a branch exemption election—

(a) is permitted with respect to any or all of the permanent establishments through which the business of the Bermuda Constituent Entity is carried out; and

(b) shall apply only to the specific permanent establishment(s) designated by the Bermuda Constituent Entity;

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

"commencement date" has the meaning given to that term in section 53;

"community development tax credit" shall mean the tax credit described in Part 4 of the Tax Credits Act;

"community development tax credit benefit" has the meaning given to that term in section 28 of the Tax Credits Act;

"consolidated financial statements" means—

(a) the financial statements prepared by an entity in accordance with an acceptable financial accounting standard, in which the assets, liabilities, income, expenses and cash flows of that entity and the entities in which it has a controlling interest are presented as those of a single economic unit;

(b) where an entity is located in one jurisdiction and has one or more permanent establishments located in other jurisdictions but is not part of another group, the financial statements of the entity that are prepared in accordance with an acceptable financial accounting standard;

(c) where the ultimate parent entity has financial statements described in paragraph (a) or (b) that are not prepared in accordance with an acceptable financial accounting standard, the financial statements are those that have been prepared subject to adjustments to prevent any material competitive distortions; and for these purposes a material competitive distortion means an application that results in a variation greater than EUR 75 million in a fiscal year compared to an amount that would have been determined by applying the corresponding IFRS principle or procedure; and

(d) where the ultimate parent entity does not prepare financial statements described in the paragraphs above, the consolidated financial statements of the ultimate parent entity are those that would have been prepared if such entity were required to prepare such statements in accordance with any authorised financial accounting standard that is either an acceptable financial accounting standard or another financial accounting standard that is adjusted to prevent any material competitive distortions;

"constituent entity" means—

(a) an entity that is a member of a group; and

(b) any permanent establishment of a main entity that is within paragraph (a),

provided that—

(i) for the purposes of this definition a permanent establishment under paragraph (b) shall be treated as separate from the main entity and any other permanent establishment of that main entity; and

(ii) a constituent entity does not include an entity that is an excluded entity;

"constituent entity-owner" means a constituent entity that directly or indirectly owns an ownership interest in another constituent entity of the same MNE Group;

"controlled foreign company tax regime" means a set of tax rules (other than an IIR) under which a direct or indirect owner of a foreign entity is subject to current taxation on its share of part or all of the income earned by the foreign entity, irrespective of whether that income is distributed currently to the direct or indirect owner;

"controlling interest" means an ownership interest in an entity such that the interest holder—

(a) is required to consolidate the assets, liabilities, income, expenses and cash flows of the entity on a line-by-line basis in accordance with an acceptable financial accounting standard; or

(b) would have been required to consolidate the assets, liabilities, income, expenses and cash flows of the entity on a line-by-line basis if the interest holder had prepared consolidated financial statements,

provided that a main entity is deemed to have the controlling interests of its permanent establishments;

"creditable foreign taxes" means—

(a) foreign taxes (including, but not limited to, federal, state and local income taxes) recorded in the financial accounts of a constituent entity with respect to its income or profits or its share of the income or profits of a constituent entity in which it owns an ownership interest;

(b) foreign taxes imposed in lieu of a generally applicable income tax, including (but not limited to)—

(i) foreign withholding taxes on dividends, interest, rents and royalties;

(ii) taxes imposed under section 4371 of the U.S. Internal Revenue Code; and

(iii) taxes on other categories of gross payments such as insurance premiums, provided such taxes are imposed in substitution for a generally applicable corporate income tax;

(c) foreign taxes levied by reference to retained earnings and corporate equity, including a foreign tax on multiple components based on income and equity; and

(d) foreign taxes accrued by a constituent entity under a qualified domestic minimum top-up tax (as such term is defined under the GloBE Rules),

but does not include—

(i) taxes attributable to an adjustment made by a constituent entity as a result of the application of an IIR or UTPR;

(ii) consumption taxes, such as sales taxes and value added taxes;

(iii) taxes on specific inputs (such as certain excise taxes) which do not represent an accretion of income;

(iv) digital services taxes applied to gross revenues derived from the provision of certain digital services;

(v) stamp duty, ad valorem taxes and other similar taxes imposed on transactions;

(vi) payroll taxes and other employment-based taxes such as social security contributions;

(vii) property taxes based on ownership of specific items or categories of property;

(viii) a disqualified refundable imputation tax; and

(ix) taxes paid by an insurance company in respect of returns to policyholders;

"disallowed accrual" means—

(a) any movement in deferred tax expense or benefit accrued in the financial accounts of a constituent entity which relates to an uncertain tax position; and

(b) any movement in deferred tax expense or benefit accrued in the financial accounts of a constituent entity which relates to distributions from a constituent entity;

"disqualified refundable imputation tax" means any amount of tax, other than a qualified imputation tax, accrued or paid by a constituent entity that is refundable to the—

(a) beneficial owner of a dividend distributed by such constituent entity in respect of that dividend or creditable by the beneficial owner against a tax liability other than a tax liability in respect of such dividend; or

(b) distributing corporation upon distribution of a dividend;

"dual-listed arrangements" means an arrangement entered into by two or more ultimate parent entities of separate groups, under which—

(a) the ultimate parent entities agree to combine their businesses by contract alone;

(b) pursuant to contractual arrangements the ultimate parent entities will make distributions (with respect to dividends and in liquidation) to their shareholders based on a fixed ratio;

(c) their activities are managed as a single economic entity under contractual arrangements while retaining their separate legal identities;

(d) the ownership interests in the ultimate parent entities comprising the agreement are quoted, traded or transferred independently in different capital markets; and

(e) the ultimate parent entities prepare consolidated financial statements in which the assets, liabilities, income, expenses and cash flows of all the entities of the groups are presented together as those of a single economic unit and that are required by a regulatory regime to be externally audited;

"entity" means—

(a) any legal person (other than a natural person) including, without limitation, any corporation, company (whether limited by shares or guarantee), limited liability company or partnership (whether general or limited) having separate legal personality; or

(b) an arrangement that prepares separate financial accounts, regardless of whether or not such arrangement has separate legal personality;

provided that an entity shall not include a central, state, or local government or their administration or agencies that carry out government functions;

"excluded dividends" means dividends or other distributions received or accrued in respect of an Ownership Interest, except for—

(a) a short-term portfolio shareholding; or

(b) an ownership interest in an investment entity that is subject to an election under section 41(1);

"excluded entity" has the meaning given in section 10;

"excluded equity gain or loss" means the gain, profit or loss included in the financial accounting net income or loss of a Bermuda Constituent Entity arising from—

(a) gains and losses attributable to changes in fair value of an ownership interest, except for a portfolio shareholding, that is accounted for using a fair value accounting method, including mark-to-market;

(b) profit or loss in respect of an ownership interest included under the equity method of accounting;

(c) gains and losses from disposition of an ownership interest, except for a disposition of a portfolio shareholding; and

(d) foreign exchange hedging gains or losses and transferred foreign exchange hedging gains or losses, to the extent a foreign exchange hedging election has been made by or on behalf of the Bermuda Constituent Entity for the fiscal year;

"exercise date" means—

(a) in the case of a stock or share option, warrant or equivalent form of stock-based compensation, the date of exercise;

(b) in the case of stock-based compensation not described in paragraph (a), which is issued subject to vesting or other similar restrictions, the vesting date or the date on which such restrictions otherwise lapse; or

(c) in the case of stock-based compensation not described in paragraphs (a) or (b), the date on which such stock or share is issued;

"Filing Bermuda Constituent Entity" means a Bermuda Constituent Entity that is the entity that will file a return on behalf of a Bermuda Constituent Entity Group;

"financial accounting net income or loss" has the meaning given to that term in section 21;

"fiscal year" means an accounting period with respect to which the ultimate parent entity of the MNE Group prepares its consolidated financial statements; provided that in the case of consolidated financial statements, as defined in paragraph (d) of the definition of consolidated financial statements, fiscal year shall mean the calendar year;

"fiscally transparent" means, in respect of an entity (other than a Bermuda Constituent Entity), that the income, expenditure, profit or loss of such entity shall be treated as if it were derived or incurred by the direct owner of such entity in proportion to the direct owner's interest in such entity and for these purposes—

(a) an entity, is treated as fiscally transparent in the jurisdiction in which it is created to the extent that such jurisdiction does not impose a tax on the entity's income and treats the owners of the entity as earning their respective shares of the entity's income directly for the purposes of any such tax, provided there shall be no requirement for the jurisdiction to treat the owners as incurring their respective shares of the entity's net losses in order for such entity to be considered fiscally transparent;

(b) an entity shall be treated as fiscally transparent in the jurisdiction in which the owner is located to the extent that the owner is subject to tax on its share of the entity's income or loss in its tax jurisdiction in a similar manner as if the owner directly earned its share; for the purposes of this definition, the owner is subject to tax in a similar manner if it is subject to tax on all of the income items of the entity, which may be net of expenses and losses applied in that entity, that would have been subject to tax if they had been earned directly by the owner;

(c) an entity shall be treated as fiscally transparent with respect to its income or profits even if those amounts are subject to a tax imposed by a local or sub-national tax authority, provided the entity is treated as fiscally transparent for tax purposes under national or federal law in the same jurisdiction; and

(d) an entity shall not be treated as fiscally transparent under the laws of a jurisdiction solely because it is treated for tax purposes in that jurisdiction as forming part of another entity because it is a member of a tax consolidated group;

"five-year election" means, subject to sections 49(6) and 49A, an election made by or on behalf of a Bermuda Constituent Entity that—

(a) once made, shall apply for the fiscal year in which it is made (the election year) and the four succeeding fiscal years;

(b) cannot be revoked with respect to the election year or the four succeeding fiscal years;

(c) shall continue to apply after the period specified in paragraph (b) unless and until the election is modified or revoked; and

(d) if revoked with respect to a fiscal year (the revocation year) cannot be made again with respect to the four fiscal years succeeding the revocation year;

"flow-through entity" means an entity to the extent it is fiscally transparent with respect to its income, expenditure, profit or loss in the jurisdiction where it was created, unless it is tax resident and subject to a tax on its income or profit in another jurisdiction;

"foreign exchange hedging election" means a five-year election made by or on behalf of a Bermuda Constituent Entity to treat all foreign exchange hedging gains or losses and transferred foreign exchange hedging gains or losses of the Bermuda Constituent Entity as excluded equity gains or losses for the purposes of section 27(1)(c);

"foreign exchange hedging gains or losses" means gains or losses of a Bermuda Constituent Entity for a fiscal year which are attributable to hedging instruments entered into by the Bermuda Constituent Entity that hedge the currency risk in ownership interests held by the Bermuda Constituent Entity, to the extent that—

(a) the ownership interests are not portfolio shareholdings;

(b) the gains or losses are recognised in—

(i) the profit and loss statement of the Bermuda Constituent Entity utilised in the determination of the financial accounting net income or loss of the Bermuda Constituent Entity for the fiscal year in accordance with section 21;

(ii) other comprehensive income at the level of the consolidated financial statements; and

(c) the hedging instruments are considered effective hedges under the financial accounting standard used in the preparation of the consolidated financial statements;

"foreign tax credit" has the meaning given to that term in section 16;

"general government" means the central administration, agencies whose operations are under its effective control, state and local governments and their administrations;

"GloBE Rules" means the Global Anti-Base Erosion Model Rules (Pillar 2) published by the Organisation for Economic Cooperation and Development,

as such rules may be updated from time to time, together with any related commentary or guidance;

"governmental entity" means an entity that meets the following criteria—

(a) it is part of or wholly-owned by a government (including any political subdivision or local authority thereof);

(b) it has the principal purpose of—

(i) fulfilling a government function; or

(ii) managing or investing that government's or jurisdiction's assets through the making and holding of investments, asset management, and related investment activities for the government's or jurisdiction's assets and does not carry on a trade or business;

(c) it is accountable to the government on its overall performance, and provides annual information reporting to the government; and

(d) its assets vest in such government upon dissolution and to the extent it distributes net earnings, such net earnings are distributed solely to such government with no portion of its net earnings inuring to the benefit of any private person;

"group" means—

(a) a collection of entities that are related through ownership or control such that the assets, liabilities, income, expenses and cash flows of those entities—

(i) are included in the consolidated financial statements of the ultimate parent entity; or

(ii) are excluded from the consolidated financial statements of the ultimate parent entity solely on size or materiality grounds, or on the grounds that the entity is held for sale; or

(b) an entity that is located in one jurisdiction and has one or more permanent establishments located in other jurisdictions provided the entity is not part of another group as described in paragraph (a);

"group entity" means, in respect of any entity or group, an entity that is a member of the same group;

"hybrid entity" means an entity that is treated as a separate taxable person for income tax purposes in the jurisdiction where it is located but that is fiscally transparent in the jurisdiction in which its owner is located;

"identifiable intangible asset" means an asset (not including a financial asset or goodwill) that lacks physical substance, provided either of the following conditions is met—

(a) the asset is capable of being separated or divided from the entity and sold, transferred, licensed, rented, or exchanged, either individually, or together with a related contract, identifiable asset, or liability; or

(b) the asset arises from contractual or other legal rights, regardless of whether those rights are transferable or separable from the entity or from other rights and obligations;

"IFRS" means the International Financial Reporting Standards, as amended from time to time;

"IIR" means the Income Inclusion rules set forth in Article 2.1 to Article 2.3 of the GloBE Rules and shall include, for these purposes, any "Qualified IIR" as defined in the GloBE Rules;

"In Scope MNE Group" means an MNE Group as set forth in section 11;

"insurance investment entity" means an entity that would meet the definition of an investment fund or a real estate investment vehicle except that it is established in relation to liabilities under an insurance or annuity contract and is wholly-owned by an entity that is subject to regulation in its location as an insurance company;

"intermediate parent entity" means a constituent entity (other than an ultimate parent entity, partially-owned parent entity, permanent establishment or investment entity) that owns (directly or indirectly) an ownership interest in another constituent entity in the same MNE Group;

"international organisation" means any intergovernmental organisation (including a supranational organisation) or wholly-owned agency or instrumentality thereof that meets all of the criteria set out in paragraphs (a) to (c) below—

(a) it is comprised primarily of governments;

(b) it has in effect a headquarters or substantially similar agreement (for example, arrangements that entitle the organisation's offices or establishments in the jurisdiction (e.g. a subdivision, or a local, or regional office) to privileges and immunities) with the jurisdiction in which it is established; and

(c) law or its governing documents prevent its income inuring to the benefit of private persons;

"international shipping income" has the meaning given to that term in section 36(2);

"investment entity" means—

(a) an investment fund or real estate investment vehicle;

(b) an entity that is at least 95% owned directly by an entity described in paragraph (a) or through a chain of such entities and that operates exclusively or almost exclusively to hold assets or invest funds for the benefit of such investment entities; or

(c) an entity where at least 85% of the value of the entity is owned by an entity referred to in paragraph (a) provided that substantially all of the entity's income is excluded dividends or excluded equity gain or loss;

"investment fund" means an entity that meets the following criteria—

(a) it is designed to pool assets (which may be financial and non-financial) from a number of investors (some of which are not connected);

(b) it invests in accordance with a defined investment policy;

(c) it allows investors to reduce transaction, research, and analytical costs, or to spread risk collectively;

(d) it is primarily designed to generate investment income or gains, or protection against a particular or general event or outcome;

(e) investors have a right to return from the assets of the fund or income earned on those assets, based on the contributions made by those investors;

(f) the entity or its management is subject to a regulatory regime in the jurisdiction in which it is established or managed (including appropriate anti-money laundering and investor protection regulation) which for these purposes includes the regulatory regime of the Investment Funds Act 2006; and

(g) it is managed by investment fund management professionals on behalf of the investors;

"joint venture" means an entity whose financial results are reported under the equity method in the consolidated financial statements of the ultimate parent entity provided that the ultimate parent entity holds directly or indirectly at least 50% of its ownership interests, but does not include—

(a) an ultimate parent entity of an MNE Group;

(b) an excluded entity;

(c) an entity whose ownership interests held by the MNE Group are held directly through an excluded entity and the entity—

(i) operates exclusively or almost exclusively to hold assets or invest funds for the benefit of its investors;

(ii) carries out activities that are ancillary to those carried out by the excluded entity; or

(iii) substantially all of its income is excluded dividends and excluded equity gains and losses;

(d) an entity that is held by an MNE Group composed exclusively of excluded entities; or

(e) a joint venture subsidiary;

"joint venture subsidiary" means an entity whose assets, liabilities, income, expenses and cash flows are consolidated by a joint venture under an acceptable financial accounting standard (or would have been had it been required to consolidate such items in accordance with an acceptable financial accounting standard); a permanent establishment whose main entity is the joint venture or a joint venture subsidiary shall be treated as a separate joint venture subsidiary;

"main entity" means, in respect of a permanent establishment, an entity that includes the financial accounting net income or loss of the permanent establishment in its financial statements;

"matched insurance contract" means a contract issued by an insurance company where amounts arising to the insurance company in respect of securities held by the insurance company result in an economically offsetting change in the amount of the obligations to the holders of the contracts by reason of law, regulation, or the terms of one or more such contracts, and the offsetting amount is also reflected in financial accounting net income or loss;

"Minister" means the Minister of Finance;

"minority-owned constituent entity" means a constituent entity where the ultimate parent entity has a direct or indirect ownership interest in that entity of 30% or less;

"MNE Group" means any group that includes at least one entity or permanent establishment that is not located in the jurisdiction of the ultimate parent entity;

"Multi-Parented MNE Group" means two or more groups where—

(a) the ultimate parent entity of those groups enters into an arrangement that is a stapled structure or a dual-listed arrangement; and

(b) at least one entity or permanent establishment of the combined group is located in a different jurisdiction with respect to the location of the other entities of the combined group;

"net book value of tangible assets" means the average of the beginning and ending values of tangible assets after taking into account accumulated depreciation, depletion, and impairment, as recorded in the financial statements;

"net taxable income" means an amount determined pursuant to section 5;

"net taxable income or loss" shall mean either net taxable income or net taxable loss as the circumstances dictate;

"net taxable loss" has the meaning given to that term in section 6(7);

"net taxes expense" means the net amount of expense or benefit recognised in the computation of financial accounting net income or loss, whether accrued in the profit or loss before taxation or in above-the-line expense or benefit, or a

below-the-line current or deferred income tax expense or benefit in the financial accounts, with respect to the following taxes—

(a) any income tax including any tax imposed pursuant to section 4;

(b) any creditable foreign tax, including creditable foreign taxes on income that is excluded from the taxable income or loss computation;

(c) any qualified domestic minimum top-up tax (as such term is defined under the GloBE Rules);

(d) any taxes arising pursuant to the GloBE Rules;

(e) any disqualified refundable imputation tax; and

(f) any taxes accrued by an insurance company in respect of returns to policyholders to the extent that section 31 applies in relation to those taxes;

"non-profit organisation" means an entity that meets all of the following criteria—

(a) it is established and operated in its jurisdiction of residence—

(i) exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational, or other similar purposes; or

(ii) as a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

(b) substantially all of the income from the activities mentioned in paragraph (a) is exempt from income tax in its jurisdiction of residence;

(c) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(d) the income or assets of the entity may not be distributed to, or applied for the benefit of, a private person or non-charitable entity other than—

(i) pursuant to the conduct of the entity's charitable activities;

(ii) as payment of reasonable compensation for services rendered or for the use of property or capital; or

(iii) as payment representing the fair market value of property which the entity has purchased; and

(e) upon termination, liquidation or dissolution of the entity, all of its assets must be distributed or revert to a non-profit organisation or to the government (including any governmental entity) of the entity's jurisdiction of residence or any political subdivision thereof,

but shall not include any entity carrying on a trade or business that is not directly related to the purposes for which it was established;

"non-qualified refundable tax credit" means a tax credit that is not a qualified refundable tax credit but that is refundable in whole or in part;

"non-qualifying gain or loss" means the gain or loss of the disposing constituent entity arising in connection with a qualifying reorganisation that is not attributable to the issuance of an equity interest;

"OECD" means the Organisation for Economic Cooperation and Development;

"OECD Model Tax Convention" means the OECD Model Tax Convention on Income and on Capital (as amended from time to time);

"opening tax loss carryforward" means an amount determined pursuant to section 6(4);

"other comprehensive income" means items of income and expense that are not recognised in profit or loss as required or permitted by the approved financial accounting standard used in the consolidated financial statements;

"ownership interest" means any equity interest (i.e. any shares, interests, participation, or other equivalents of that entity which are characterised as equity under the approved financial accounting standard used in the consolidated financial statements) that carries rights to the profits, capital or reserves of an entity, including the profits, capital or reserves of a main entity's permanent establishment(s);

"parent entity" means an ultimate parent entity that is not an excluded entity, an intermediate parent entity or a partially-owned parent entity;

"passive income" means income included in net taxable income that is—

(a) a dividend;

(b) interest;

(c) rent;

(d) royalty;

(e) annuity; or

(f) net gains from the property of a type that produces income described in paragraphs (a) to (e),

but in each case only to the extent a constituent entity-owner of a Bermuda Constituent Entity is subject to tax on such income under a controlled foreign company tax regime or as a result of an ownership interest in a hybrid entity;";

"pension fund" means—

(a) an entity that is established and operated in a jurisdiction exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals—

(i) regulated as such by that jurisdiction or one of its political subdivisions or local authorities; or

(ii) those benefits are secured or otherwise protected by national regulations and funded by a pool of assets held through a fiduciary arrangement or trustor to secure the fulfilment of the corresponding pension obligations against a case of insolvency of the constituent entity; and

(b) a pension services entity;

"pension services entity" means an entity that is established and operated exclusively or almost exclusively—

(a) to invest funds for the benefit of entities referred to in paragraph (a) of the definition of pension fund; or

(b) to carry out activities that are ancillary to those regulated activities carried out by the entities referred to in paragraph (a) of the definition of pension fund provided that they are members of the same group;

"permanent establishment" means—

(a) a place of business (including a deemed place of business) situated in a jurisdiction and treated as a permanent establishment in accordance with an applicable tax treaty in force provided that such jurisdiction taxes the income attributable to it in accordance with a provision similar to Article 7 of the OECD Model Tax Convention;

(b) if there is no applicable tax treaty in force, a place of business (including a deemed place of business) in respect of which a jurisdiction taxes under its domestic law the income attributable to such place of business on a net basis similar to the manner in which it taxes its own tax residents;

(c) if a jurisdiction has no corporate income tax system, a place of business (including a deemed place of business) situated in that jurisdiction that would be treated as a permanent establishment in accordance with the OECD Model Tax Convention provided that such jurisdiction would have had the right to tax the income attributable to it in accordance with Article 7 of that Convention; or

(d) a place of business (or a deemed place of business) that is not already described in paragraphs (a) to (c) through which operations are conducted outside the jurisdiction where the entity is located provided that such jurisdiction exempts the income attributable to such operations;

"policy disallowed expenses" means—

(a) expenses accrued by the constituent entity for illegal payments, including bribes and kickbacks; and

(b) expenses accrued by the constituent entity for fines and penalties that equal or exceed EUR 50,000;

"portfolio shareholding" means ownership interests in an entity that are held by the In Scope MNE Group that carry rights to less than 10% of the profits, capital, reserves, or voting rights of that entity at the date of the distribution or disposition, provided that all of the ownership interests which carry the same rights in an entity (that is to say profit, capital reserves or voting rights) which are held by such In Scope MNE Group shall be aggregated for the purposes of applying the 10% threshold test in respect of those ownership interests;

"prescribed" means prescribed by regulations under section 3;

"qualified ancillary international shipping income" has the meaning given in section 36(4);

"qualified imputation tax" means a creditable foreign tax accrued or paid by a constituent entity that is refundable or creditable to the beneficial owner of a dividend distributed by such constituent entity (or, in the case of a creditable foreign tax accrued or paid by a permanent establishment, a dividend distributed by the main entity) to the extent that the refund is payable, or the credit is provided—

(a) by a jurisdiction other than the jurisdiction which imposed the creditable foreign tax under a foreign tax credit regime;

(b) to a beneficial owner of the dividend that is subject to tax at a nominal rate that equals or exceeds 15% on the dividend on a current basis under the domestic law of the jurisdiction which imposed the creditable foreign tax on the constituent entity;

(c) to an individual beneficial owner of the dividend who is tax resident in the jurisdiction which imposed the creditable foreign tax on the constituent entity and who is subject to tax on the dividends as ordinary income; or

(d) to a governmental entity, an international organisation, a resident non-profit organisation, a resident pension fund, a resident investment entity that is not a group entity, or a resident life insurance company to the extent that the dividends are received in connection with a pension fund business and subject to tax in a similar manner as a dividend received by a pension fund; and for these purposes—

(i) a non-profit organisation or pension fund is resident in a jurisdiction if it is created and managed in that jurisdiction; and

(ii) an investment entity is resident in a jurisdiction if it is created and regulated in the jurisdiction, and a life insurance company is resident in the jurisdiction in which it is located;

"qualified refundable tax credit" means—

(a) a refundable tax credit designed in a way such that it must be paid as cash or available as cash equivalents within four years from when a constituent entity satisfies the conditions for receiving the credit under the laws of the jurisdiction granting the credit; or

(b) a tax credit that is refundable in part to the extent it must be paid as cash or available as cash equivalents within four years from when a constituent entity satisfies the conditions for receiving the credit under the laws of the jurisdiction granting the credit, but does not include any amount of tax creditable or refundable pursuant to a qualified imputation tax or a disqualified refundable imputation tax;

"qualifying reorganisation" means a transformation or transfer of assets and liabilities such as in a merger, demerger, amalgamation, consolidation, contribution, liquidation, or similar transaction where the consideration for the transfer is, in whole or in significant part, equity interests issued by the acquiring constituent entity or by a person connected (determined in a manner consistent with the test set out in Article 5(8) of the OECD Model Tax Convention) with the acquiring constituent entity, or in the case of a liquidation, equity interests of the target (or, when no consideration is provided, where the issuance of an equity interest would have no economic significance);

"real estate investment vehicle" means an entity the taxation of which achieves a single level of taxation either in its hands or the hands of its interest holders (with at most one year of deferral), provided that that entity holds predominantly immovable property and is itself widely held;

"reference jurisdiction" means the jurisdiction where the MNE Group has the highest total value of tangible assets for the fiscal year in which the MNE Group first meets the requirements of section 11(1), as determined without regard to the application of section 13;

"reporting fiscal year" means a fiscal year that is the subject of a return;

"reverse hybrid entity" means a flow-through entity that is not fiscally transparent in the jurisdiction in which the owner is located;

"short-term portfolio shareholding" means a portfolio shareholding that has been economically held by the constituent entity that receives or accrues the dividends or other distributions for less than one year, and for the purposes of this definition—

(a) a constituent entity is considered as holding economically a portfolio shareholding when it has (or is entitled to) all or substantially all the benefits and the burdens of ownership, including rights to profits, capital, reserves, or voting carried by its ownership interests, and has not renounced or transferred such rights under another arrangement over the tested period;

(b) the one-year holding period requirement is tested on the date of the distribution of the dividends, taking into account fluctuations of the ownership interest held by the constituent entity in an entity; and in this respect—

(i) the disposition of an ownership interest in a particular class of shares is deemed to be a disposition of the most recently acquired ownership interests of the same class; and

(ii) dispositions of one particular class of shares do not affect the determination of the holding period of another particular class of shares held by the constituent entity in the same entity;

(c) the one-year holding period requirement only relates to the ownership interest in respect of which a distribution is received or accrued and does not require a further determination of whether the distribution was funded by another distribution to which the same condition would apply;

(d) the one-year holding period requirement applies to each constituent entity holder separately and in respect of the same class of shares such that the dividends received or accrued in respect of the same class of shares that were held for one year or more are exempted, whereas other dividends are not; and

(e) the one-year holding period requirement applies separately to each constituent entity, such that a transfer of shares between two or more constituent entities that are members of the same In Scope MNE Group would be considered as an interruption of the holding period; however, the holding period would not be considered as interrupted in the case of a reorganisation between constituent entities that are members of the same In Scope MNE Group;

(f) the Filing Bermuda Constituent Entity may make an annual election to treat all portfolio shareholdings of a Bermuda Constituent Entity as short-term portfolio shareholdings, such that all dividends received with respect to portfolio shareholdings during the fiscal year shall be included in the computation of the Bermuda Constituent Entity's taxable income or loss and shall not be treated as excluded dividends;

"stapled structure" means an arrangement entered into by two or more ultimate parent entities of separate groups, under which—

(a) 50% or more of the ownership interests in the ultimate parent entities of the separate groups are by reason of form of ownership, restrictions on transfer, or other terms or conditions combined with each other, and cannot be transferred or traded independently; if the combined ownership interests are listed, they are quoted at a single price; and

(b) one of those ultimate parent entities prepares consolidated financial statements in which the assets, liabilities, income, expenses and cash flows of all the entities of the groups are presented together as those of a

single economic unit and that are required by a regulatory regime to be externally audited;

"stateless constituent entity" means a constituent entity described in section 14(2)(b) or 14(3)(d);

"stock-based compensation" means compensation expenditures in the form of stock or shares, stock or share options, stock or share warrants, or an equivalent, including expenditures applicable to employees or non-employees of the constituent entity;

"substance-based tax credit" means the tax credit described in Part 3 of the Tax Credits Act;"

"tangible assets" means the tangible assets of all constituent entities located in the relevant tax jurisdiction but does not include cash or cash equivalents, intangibles, or financial assets; with regard to permanent establishments, tangible assets should be allocated to the tax jurisdiction in which the permanent establishment is located provided the tangible assets are included in the separate financial accounts of that permanent establishment as determined by section 22(2), as adjusted in accordance with section 22(3) and (4) or section 23(2), and the tangible assets allocated to the tax jurisdiction of a permanent establishment shall not be included in the tangible assets of the tax jurisdiction of the main entity;

"tax" means a compulsory, unrequited payment to general government;

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

"tax loss carryforward" means an amount determined pursuant to section 6(2);

"tax loss carryforward deduction" means an amount determined pursuant to section 6(1);

"tax receipts" has the meaning given to that term under section 2 of the CIT Agency Act;

"tax transparent entity" means a flow-through entity to the extent that it is fiscally transparent in the jurisdiction in which its owner is located; in addition, a constituent entity that is not a tax resident in any jurisdiction and not subject to an income tax or a qualified domestic minimum top-up tax based on its place of management, place of creation, or similar criteria shall be treated as a flow-through entity and a tax transparent entity in respect of its income, expenditure, profit or loss to the extent that—

(a) its owners are located in a jurisdiction that treats the entity as fiscally transparent;

(b) it does not have a place of business in the jurisdiction where it was created; and

(c) the income, expenditure, profit or loss is not attributable to a permanent establishment;

"tax transparent structure" means a chain of tax transparent entities through which an ownership interest in an entity or a permanent establishment that is a constituent entity is held;

"tax treaty" means an agreement for the avoidance of double taxation with respect to taxes on income and on capital;

"taxable income" of a Bermuda Constituent Entity has the meaning given to that term in section 20;

"taxable income or loss" means either taxable income or taxable loss as the circumstances dictate;

"taxable loss" of a Bermuda Constituent Entity has the meaning given to that term in section 20;

"transferred foreign exchange hedging gains or losses" means gains or losses of a Bermuda Constituent Entity for a fiscal year which arise due to a transfer of the economic effect of a hedge to the Bermuda Constituent Entity from another constituent entity, to the extent that—

(a) the hedge arises due to entering into arrangements involving hedging instruments that hedge the currency risk in ownership interests held by the Bermuda Constituent Entity;

(b) the hedging instruments are entered into by the other constituent entity;

(c) the other constituent entity transfers the economic and accounting effect of the hedge to the Bermuda Constituent Entity through intercompany loans or other instruments;

(d) the other constituent entity is a member of the same In Scope MNE Group as the Bermuda Constituent Entity;

(e) the ownership interests held by the Bermuda Constituent Entity are not portfolio shareholdings; and

(f) the hedging instruments are considered effective hedges under the financial accounting standard used in the preparation of the consolidated financial statements;

"unclaimed accrual" means any increase in a deferred tax liability recorded in the financial accounts of a constituent entity for a fiscal year that is not expected to be paid within the five subsequent fiscal years and for which the Filing Bermuda Constituent Entity makes an annual election not to include in the deferred tax adjustment of a Bermuda Constituent Entity for such fiscal year;

"ultimate parent entity" or "UPE" means—

(a) an entity that—

(i) owns, directly or indirectly, a controlling interest in any entity; and

(ii) is not owned, with a controlling interest, directly or indirectly by another entity; or

(b) the main entity of a group,

provided that a governmental entity to which paragraph (b)(ii) of the definition of "governmental entity" applies, shall not be considered an ultimate parent entity, part of an MNE Group, or the owner of a controlling interest in any entity;

"UPE Jurisdiction" means the jurisdiction where an ultimate parent entity is located;

"UTPR" means the rules set forth in Article 2.4 to Article 2.6 of the GloBE Rules, as amended from time to time and shall include, for these purposes, any "Qualified UTPR" as defined in the GloBE Rules.

(2) Nothing in this Act shall be construed as affecting the meaning or interpretation of any term in any tax treaty or Bermuda law or other statute.

(3) Unless expressly provided otherwise, nothing in this Act shall be construed as affecting any private law obligation or right of any entity to which this Act applies.

(4) A reference to a return under this Act shall be a reference to the prescribed form.

[Section 2 in force by 2023 : 35 s. 53 effective 1 January 2024; Section 2 subsection (1) definitions "Agency", "CIT Agency Act" and "tax receipts" inserted by 2024 : 20 s. 25 effective 30 July 2024; Section 2 subsection (1) definition "asymmetric foreign currency gains or losses" deleted and substituted, and definition "Bermuda Permanent Establishment" amended by BR 130 / 2024 reg. 2 effective 1 January 2024; Section 2 subsection (1) definitions "annual election", "branch exemption election", "five-year election", "short-term portfolio shareholding", and "unclaimed accrual" amended, and "matched insurance contract" inserted by 2025 : 12 s. 2 effective 29 July 2025; Section 2 subsection (1) definitions "entity", "excluded equity gain or loss", and "ultimate parent entity" amended by 2025 : 29 s. 2 effective 11 December 2025; Section 2 subsection (1) definitions "accrued substance-based tax credit benefit", "community development tax credit", "community development tax credit benefit", "foreign exchange hedging election", "foreign exchange hedging gains or losses", "hybrid entity", "passive income", "substance-based tax credit", "Tax Credits Act", and "transferred foreign exchange hedging gains or losses" inserted by 2025 : 29 s. 2 effective 11 December 2025; Section 2 subsection (1) definition "Bermuda Corporate Income Tax Return" repealed by 2026 : 25 s. 2 effective 29 July 2026; Section 2 subsection (1) definitions "Filing Bermuda Constituent Entity" and "reporting fiscal year" amended, and definition "five-year election" repealed and substituted by 2026 : 25 s. 2 effective 29 July 2026; Section 2 subsection (4) inserted by 2026 : 25 s. 2 effective 29 July 2026]

Regulations

3 (1) The Minister may make such regulations as are necessary or expedient to give effect to the provisions of this Act.

(2) Regulations made under this section have effect despite anything to the contrary elsewhere in this Act, may have retroactive effect, and may modify or amend any provision of this Act.

(3) Regulations under this section shall be subject to the negative resolution procedure.

[Section 3 in force by 2023 : 35 s. 53 effective 1 January 2024]

PART 2

CORPORATE INCOME TAX: CHARGING PROVISIONS

Imposition of corporate income tax

4 (1) Subject to the provisions of this Act, a tax, to be known as corporate income tax, shall be chargeable to a Bermuda Constituent Entity Group on its net taxable income for each fiscal year.

(2) Where corporate income tax is chargeable to a Bermuda Constituent Entity Group under this Act, the amount of corporate income tax chargeable to the Bermuda Constituent Entity Group for a fiscal year shall be—

(a) 15% of the net taxable income of the Bermuda Constituent Entity Group; less

(b) foreign tax credits applicable to the Bermuda Constituent Entity Group under Part 4.

(3) Each Bermuda Constituent Entity of an In Scope MNE Group shall be jointly and severally liable for the tax chargeable pursuant to this Act to a Bermuda Constituent Entity Group that is part of that same In Scope MNE Group, regardless of whether or not such Bermuda Constituent Entity is a member of a particular Bermuda Constituent Entity Group within such In Scope MNE Group.

(4) A Bermuda Constituent Entity's liability for tax pursuant to this Act shall apply notwithstanding any assurance given pursuant to the Exempted Undertakings Tax Protection Act 1966.

[Section 4 subsection (3) repealed and substituted by 2025 : 2 s. 2 effective 21 April 2025; Section 4 subsection (2)(b) repealed and substituted by 2025 : 29 s. 3 effective 11 December 2025]

Calculation of net taxable income

5 (1) Subject to subsection (2), net taxable income for the fiscal year shall be determined as set forth below—

(a) first, by determining the positive amount, if any, computed by—

(i) adding the taxable income for the fiscal year; and

(ii) subtracting the taxable losses for the fiscal year,

of all Bermuda Constituent Entities in the Bermuda Constituent Entity Group;

(b) second, by reducing the positive amount (if any) determined in paragraph (a) by the tax loss carryforward deduction for the fiscal year.

(2) Subsection (1) applies except that for fiscal years beginning after the end of the period described in section 6(4)(a), the Filing Bermuda Constituent Entity may elect to reduce, in whole or in part, the taxable loss otherwise described in subsection (1)(a)(ii) above for the fiscal year and an amount corresponding to such reduction in the taxable loss shall be added to the amount determined in accordance with section 6(2)(a)(ii) for the fiscal year.

[Section 5 amended by 2025 : 12 s. 3 effective 29 July 2025]

Determination of tax loss carryforward deduction, net taxable loss, etc.

6 (1) The tax loss carryforward deduction shall be equal to the portion(s) of the tax loss carryforward of any one or more Bermuda Constituent Entities in the Bermuda Constituent Entity Group that are designated by the Filing Bermuda Constituent Entity for deduction in the fiscal year, provided that—

(a) the amount of the tax loss carryforward deduction may not exceed 80% of the positive amount determined under section 5(1)(a) for the fiscal year (except as otherwise prescribed); and

(b) the Filing Bermuda Constituent Entity may elect to reduce, in whole or in part, the amount of the tax loss carryforward deduction otherwise available pursuant to this section for the fiscal year and any reduction in the tax loss carryforward deduction pursuant to an election under this paragraph is solely for the purpose of computing net taxable income for the fiscal year and amounts not deducted in the fiscal year as a result of such election shall remain part of the tax loss carryforward.

(2) The tax loss carryforward of a Bermuda Constituent Entity shall be determined as set forth below—

(a) first, by computing the sum of the—

(i) opening tax loss carryforward allocated to the Bermuda Constituent Entity in accordance with subsection (3)(a); and

(ii) net taxable loss allocated to the Bermuda Constituent Entity in accordance with subsection (3)(b) for each fiscal year which begins after the end of the period described in subsection (4)(a);

(b) second, by adjusting the loss amount determined in accordance with paragraph (a) by—

(i) increasing the loss amount for any adjustments required to be made pursuant to sections 29(4)(c)(ii) and 33(5)(c)(ii) with respect to each fiscal year which begins after the period described in subsection (4)(a); and

(ii) reducing the loss amount for any adjustment resulting from an election made pursuant to subsection (6);

(c) third, by reducing the adjusted loss amount described in paragraph (b) for any portion of such adjusted loss amount that has been included in

the determination of a tax loss carryforward deduction described in subsection (1) in any prior fiscal year.

(3) For the purposes of subsection (2)(a)—

(a) the opening tax loss carryforward, as determined in accordance with subsection (4), shall be allocated amongst the Bermuda Constituent Entities of the In Scope MNE Group in the manner determined by the ultimate parent entity of the In Scope MNE Group; provided that the portion of the opening tax loss carryforward allocated to a specific Bermuda Constituent Entity shall not exceed the aggregate taxable losses incurred by the Bermuda Constituent Entity during the period described in subsection (4)(a); and

(b) the net taxable loss, if any, arising in each fiscal year which begins after the end of the period described in subsection (4)(a) shall be allocated amongst the Bermuda Constituent Entities of the Bermuda Constituent Entity Group in the manner determined by the Filing Bermuda Constituent Entity; provided that the portion of the net taxable loss allocated to a specific Bermuda Constituent Entity shall not exceed the taxable loss incurred by the Bermuda Constituent Entity during such fiscal year.

(4) The opening tax loss carryforward of an In Scope MNE Group shall be determined as follows—

(a) first, by determining the net taxable losses, if any, arising in each of the fiscal years, or portions thereof, included in the period which—

(i) begins on the later of—

(A) October 1, 2023; or

(B) the first day of the fifth fiscal year preceding the first fiscal year beginning on or after the commencement date in which the In Scope MNE Group meets the requirements of section 11(1), subject to section 13, and

(ii) ends on the day immediately preceding the first day of the first fiscal year beginning on or after the commencement date in which the In Scope MNE Group meets the requirements of section 11(1), subject to section 13,

provided that subparagraph (i) shall be applied without regard to clause (A) with respect to a Bermuda Constituent Entity that has made an election in accordance with section 33(8);

(b) second, by reducing the net taxable losses determined in accordance with paragraph (a) by the amount of the net taxable income (if any) arising in each of the fiscal years during the period described in paragraph (a), provided that—

(i) net taxable income for a fiscal year shall be determined in accordance with section 5, but without regard to subsection (5)(b);

(ii) a net taxable loss shall only be reduced to the extent of net taxable income arising in fiscal years subsequent to the fiscal year in which such net taxable loss was incurred;

(iii) the overall reduction determined pursuant to this paragraph (b) shall be limited to the amount determined in accordance with paragraph (a).

(5) For the purposes of subsection (4)—

(a) the net taxable loss and net taxable income amounts described in subsections (4)(a) and (b) shall be determined in the same manner as would have been required if each Bermuda Constituent Entity that is a member of the In Scope MNE Group had been subject to the income tax chargeable pursuant to this Act during the five-year period described in subsection (4)(a), with the exception of sections 29(4) and 33(5);

(b) unless an election has been made in accordance with section 33(8) with respect to a Bermuda Constituent Entity, the net taxable loss arising with respect to such Bermuda Constituent Entity prior to 1 October 2023 shall be regarded as nil;

(c) to the extent the net taxable loss and net taxable income amounts described in subsections (4)(a) and (b) are attributable to a Bermuda Constituent Entity during fiscal years, or portions thereof, in which the Bermuda Constituent Entity would not have been a Bermuda Tax Resident Entity or Bermuda Permanent Establishment had the provisions of this Act been in effect, such net taxable loss and net taxable income amounts shall be deemed to be nil;

(d) where—

(i) a Filing Bermuda Constituent Entity elects pursuant to section 21(1)(b) to calculate the net income or loss of a Bermuda Constituent Entity in accordance with an approved financial accounting standard—

(A) for the period specified in section 49(1) and where—

1 the election is revoked at the end of the period under section 49(6);

2 the election is revoked for a fiscal year beginning after the date specified under section 49(1)(b); or

3 a new election is made under section 21(1)(b) to calculate the net income or loss of the Bermuda Constituent Entity in accordance with another approved financial accounting standard for a fiscal year beginning after the date specified under section 49(1)(b); or

(B) for a fiscal year beginning after the date specified in section 49(1)(b), where the net income or loss of the Bermuda Constituent Entity is determined pursuant to section 21(1)(a) for the period specified in section 49(1); and

(ii) the amount of the opening tax loss carryforward determined with respect to the In Scope MNE Group exceeds the amount of the opening tax loss carryforward which would have been determined with respect to the In Scope MNE Group had the Filing Bermuda Constituent Entity—

(A) not made an election under section 21(1)(b) with respect to the Bermuda Constituent Entity for the period specified under section 49(1), where subparagraph (i)(A) applies; or

(B) made an election under section 21(1)(b) to apply the approved financial accounting standard specified under subparagraph (i)(B) with respect to the Bermuda Constituent Entity for the period specified under section 49(1), where subparagraph (i)(B) applies,

then the amount of the opening tax loss carryforward of the Bermuda Constituent Entity shall be reduced in accordance with subsection (9).

(e) for the purposes of this subsection, all references made to section 49(1), shall be read as subject to section 49(2).

(6) A Filing Bermuda Constituent Entity may elect to permanently disregard, in whole or in part, the amounts determined under subsection (2)(a)(i) and (ii).

(7) Net taxable loss means the nil or negative amount, if any, computed by adding the taxable income and subtracting the taxable losses of—

(a) in the case of a net taxable loss described in subsection (4), all Bermuda Constituent Entities in an In Scope MNE Group for a fiscal year; and

(b) in the case of a net taxable loss described in subsection (3)(b), all Bermuda Constituent Entities in a Bermuda Constituent Entity Group for a fiscal year.

(8) For the purposes of applying subsection (1) for a fiscal year with respect to a shock tax loss carryforward—

(a) notwithstanding subsection (1)(a), the amount of the tax loss carryforward deduction attributable to a shock tax loss carryforward may not exceed 100% of the positive amount determined under section 5(1)(a) for the fiscal year; and

(b) a shock tax loss carryforward is a tax loss carryforward—

(i) arising from a shock loss, determined as may be prescribed; and

(ii) which the Filing Bermuda Constituent Entity has elected to treat as a shock tax loss carryforward.

(9) For the purposes of subsection (5)(d), where—

(a) subsection (5)(d)(i)(A)(1) applies, the amount of the opening tax loss carryforward which would have otherwise been determined in accordance with subsection (4) shall be reduced, but not below zero, by the amount of the excess determined in accordance with subsection (5)(d)(ii);

(b) subsections (5)(d)(i)(A)(2) or (3), or (5)(d)(i)(B) apply, the amount of the opening tax loss carryforward allocated to the Bermuda Constituent Entity shall be reduced by an amount equal to the lesser of—

(i) the amount of the excess determined in accordance with subsection (5)(d)(ii); or

(ii) the amount computed by—

(A) adding the amount of the opening tax loss carryforward allocated to the Bermuda Constituent Entity in accordance with subsection (3)(a), subject to any reduction in the opening tax loss carryforward pursuant to subsection (6); and

(B) subtracting any portion of the amount determined under subparagraph (A) that has been included in the determination of a tax loss carryforward deduction for any fiscal year preceding—

1 the revocation year specified under subsection (5)(d)(i)(A)(2), if applicable;

2 the fiscal year for which a new election is made under section 21(1)(b) as specified under subsection (5)(d)(i)(A)(3), if applicable;

3 the fiscal year for which an election is made under section 21(1)(b) as specified under subsection (5)(d)(i)(B), if applicable.

[Section 6 amended by BR 130 / 2024 reg. 3 effective 1 January 2025; Section 6 amended by 2025 : 29 s. 4 effective 11 December 2025; Section 6 subsections (5)(d) and (e) inserted by 2026 : 25 s. 3 effective 29 July 2026; Section 6 subsection (9) inserted by 2026 : 25 s. 3 effective 29 July 2026]

De minimis exemption

7 (1) At the election of a Filing Bermuda Constituent Entity, the tax chargeable by section 4 shall be deemed to be zero for a fiscal year, if for such fiscal year—

(a) the average revenue is less than EUR 10 million; and

(b) the average net taxable income or loss is either a loss or is less than EUR 1 million.

(2) The election under subsection (1) is an annual election and may not be made with respect to a Bermuda Constituent Entity Group for a fiscal year unless the election is made with respect to all Bermuda Constituent Entity Groups within the same In Scope MNE Group for the fiscal year, other than Bermuda Constituent Entity Groups which are comprised exclusively of stateless constituent entities or investment entities or both.

(3) For purposes of subsection (1), average revenue and average net taxable income or loss shall be the average of the amounts described in subsections (4) and (5), respectively, for the current and the two preceding fiscal years, provided that to the extent—

(a) none of the Bermuda Constituent Entities of the In Scope MNE Group earned revenue or incurred a taxable loss in the first or second preceding fiscal year, such year or years shall be excluded from the calculation of average revenue and average net taxable income or loss;

(b) the first or second preceding fiscal year ends prior to the first fiscal year beginning on or after the commencement date in which the In Scope MNE Group meets the requirements of section 11(1), subject to section 13, such year or years shall be excluded from the calculation of average revenue and average net taxable income or loss;

(c) the current or either of the two preceding fiscal years of a Bermuda Constituent Entity represent a period of less than 12 months then, for purposes of determining average revenue and average net taxable income or loss, the revenue and taxable income or loss of the Bermuda Constituent Entity for such short fiscal year shall be multiplied by the result obtained by dividing 12 by the number of months (or portions of a month) in the short fiscal year; and

(d) a Bermuda Constituent Entity has joined or left the In Scope MNE Group, only the revenue and taxable income or loss earned during a fiscal year (or portion thereof) in which the Bermuda Constituent Entity was a member of the In Scope MNE Group shall be considered for purposes of determining average revenue and average net taxable income or loss of the In Scope MNE Group.

(4) For the purposes of subsection (1)—

(a) the amount specified in subsection (1)(a) shall be computed based on the aggregate revenues of all Bermuda Constituent Entities of the relevant In Scope MNE Group; and

(b) subject to subsection (4A) the term "revenue" means the amount of revenue included in the determination of the financial accounting net income or loss in accordance with section 21.

(4A) For the purposes of subsection (4), the revenue shall be subject to the adjustments set out in Parts 5 and 6, except—

(a) any adjustments to revenue arising from the application of sections 21(6), 29, 33 or 34 shall be disregarded;

(b) any adjustments to revenue arising from the application of section 28(2) shall be determined without regard to section 28(2) (a); and

(c) with respect to any other adjustments specified in Parts 5 or 6, only those adjustments which affect the amount of revenue included in the determination of the net taxable income or loss shall be considered.

(5) The amount described in subsection (1)(b) is computed by—

(a) adding the taxable income; and

(b) subtracting the taxable losses,

of all Bermuda Constituent Entities of the relevant In Scope MNE Group.

(6) An election made under subsection (1) shall not apply in relation to a Bermuda Constituent Entity which is a stateless constituent entity or an investment entity, and—

(a) the revenue and the taxable income or taxable loss of a stateless constituent entity and of an investment entity shall be excluded from the computations in subsection (3); and

(b) the election under subsection (1) shall not be made with respect to a Bermuda Constituent Entity Group which is comprised, in whole or in part, of stateless constituent entities or investment entities or both.

[Section 7 amended by 2025 : 12 s. 4 effective 29 July 2025; Section 7 subsection (2) amended, subsections (4) and (6) repealed and substituted, and subsection (4A) inserted by 2026 : 25 s. 4 effective 29 July 2026]

PART 3

IN SCOPE ENTITIES: DETERMINATION

Definition of Bermuda Constituent Entity Group

8 (1) A Bermuda Constituent Entity Group shall comprise one or more Bermuda Constituent Entities of an In Scope MNE Group.

(2) The number of Bermuda Constituent Entity Groups within each In Scope MNE Group (and membership of each such Bermuda Constituent Entity Group) shall be determined as follows—

(a) each Bermuda Constituent Entity that is a flow-through entity and is not the ultimate parent entity of the In Scope MNE Group, shall be treated as a separate and distinct Bermuda Constituent Entity Group comprising only the Bermuda Constituent Entity as described in this paragraph;

(b) all Bermuda Constituent Entities described in section 39 shall form a separate and distinct Bermuda Constituent Entity Group;

(c) all remaining Bermuda Constituent Entities in the In Scope MNE Group that do not fall into paragraphs (a) or (b) shall form a separate and distinct Bermuda Constituent Entity Group from those Bermuda Constituent Entity Groups described in paragraphs (a) and (b).

(3) A Filing Bermuda Constituent Entity may elect to modify, in whole or in part, the composition of the Bermuda Constituent Entity Group(s) determined pursuant to subsection (2), provided that—

(a) all Bermuda Constituent Entities of an In Scope MNE Group must be included in a Bermuda Constituent Entity Group, either alone or together with other Bermuda Constituent Entities of the In Scope MNE Group; and

(b) no Bermuda Constituent Entity of an In Scope MNE Group may be included in more than one Bermuda Constituent Entity Group.

(4) The election in subsection (3) is an annual election.

[Section 8 subsection (3) amended by 2025 : 12 s. 5 effective 29 July 2025]

Definition of Bermuda Constituent Entity

9 (1) Subject to subsection (2), a Bermuda Constituent Entity means—

(a) a Bermuda Tax Resident Entity; or

(b) a Bermuda Permanent Establishment,

that is a constituent entity of an In Scope MNE Group.

(2) The following entities shall not be treated as Bermuda Constituent Entities and accordingly shall not form part of a Bermuda Constituent Entity Group and shall not be subject to the charging provisions of section 4—

(a) excluded entities; and

(b) subject to an election under subsection (3), an entity that is less than 80% owned (by value), directly or indirectly, by the ultimate parent entity of the relevant In Scope MNE Group.

(3) The Filing Bermuda Constituent Entity—

(a) may elect to disregard subsection (2)(b) with respect to an entity that is less than 80% owned (by value), directly or indirectly, by the ultimate parent entity of the relevant In Scope MNE Group; and

(b) shall, for the purposes of paragraph (a), include an entity that would not be treated as a Bermuda Constituent Entity but for the fact that an election will be made pursuant to this subsection or section 10(3) with respect to the entity.

(4) An election under subsection (3) is a five-year election.

[Section 9 subsection (3) repealed and substituted by 2025 : 12 s. 6 effective 29 July 2025]

Definition of excluded entity

10 (1) An excluded entity is an entity that is—

(a) a governmental entity;

(b) an international organisation;

(c) a non-profit organisation;

(d) a pension fund;

(e) an investment fund that is an ultimate parent entity; or

(f) a real estate investment vehicle that is an ultimate parent entity,

and entities referred to in subsection (2).

(2) Excluded entities shall also include entities—

(a) where at least 95% of the value of the entity is owned (directly or through a chain of excluded entities) by one or more excluded entities referred to in subsection (1) (other than a pension services entity) and where that entity—

(i) operates exclusively or almost exclusively to hold assets or invest funds for the benefit of the excluded entity or entities; or

(ii) only carries out activities that are ancillary to those carried out by the excluded entity or entities; or

(b) where at least 85% of the value of the entity is owned (directly or through a chain of excluded entities), by one or more excluded entities referred to in subsection (1) (other than a pension services entity) provided that substantially all of the entity's income is excluded dividends or excluded equity gain or loss that is excluded from the computation of taxable income or loss in accordance with section 20.

(3) A Bermuda Constituent Entity that would otherwise be an excluded entity may elect to not be treated as an excluded entity.

(4) An election under subsection (3) is a five-year election.

(5) For the purposes of subsection (2)(a)—

(a) to the extent that a subsidiary of an excluded entity borrows funds from third parties to make direct acquisitions of assets (including ownership interests in other entities), the borrowing and acquisition should be treated as holding assets and investing funds for the benefit of its excluded entity parent; and

(b) an entity should not be considered to fail the activities test in subsection (2)(a) where the aggregate of its activities falls within the combined scope of subparagraphs (i) and (ii) of that subsection.

[Section 10 subsection (5) inserted by 2025 : 29 s. 5 effective 11 December 2025]

Definition of In Scope MNE Group

11 (1) Subject to section 13 an In Scope MNE Group is an MNE Group if, with respect to any fiscal year beginning on or after the commencement date, the MNE Group

has annual revenue of EUR 750 million or more in the consolidated financial statements of the ultimate parent entity for at least two of the four fiscal years immediately preceding such fiscal year.

(2) For the purposes of subsection (1), if two or more groups merge to form a single group in any of the four fiscal years immediately preceding the relevant fiscal year, the consolidated revenue threshold of the MNE Group for any fiscal year prior to the merger is deemed to be met for that year if the sum of the revenue included in each of the group's consolidated financial statements for that year is equal to or greater than EUR 750 million.

(3) Where an entity that is not a member of any group (an "acquirer") acquires or merges with an entity or group (a "target") in a fiscal year and the acquirer or target does not have consolidated financial statements in any of the four fiscal years immediately preceding such fiscal year because it was not a member of any group in that year, the consolidated revenue threshold of the MNE Group is deemed to be met for that year if the sum of the revenue included in each of the acquirer's and the target's financial statements or consolidated financial statements for that year is equal to or greater than EUR 750 million.

(4) Where an MNE Group demerges into two or more groups (each a "demerged group"), the consolidated revenue threshold is deemed to be met by a demerged group—

(a) with respect to the first fiscal year ending after the demerger, if the demerged group has annual revenues of EUR 750 million or more in that year; and

(b) with respect to the second to fourth fiscal years ending after the demerger, if the demerged group has annual revenues of EUR 750 million or more in at least two of the fiscal years following the year of the demerger.

(5) For the purposes of subsection (3), a merger is any arrangement where—

(a) all or substantially all of the group entities of two or more separate groups are brought under common control such that they constitute group entities of a combined group; or

(b) an entity that is not a member of any group is brought under common control with another entity or group such that they constitute group entities of a combined group.

(6) For the purposes of subsection (4) a demerger is any arrangement where the group entities of a single group are separated into two or more groups that are no longer consolidated by the same ultimate parent entity.

(7) For purposes only of determining whether the EUR 750 million threshold of subsection (1) has been exceeded, an excluded entity will be treated as a group entity and its revenue must be taken into account in applying the consolidated revenue threshold, provided (and to the extent that) its income is consolidated with the rest of the MNE Group.

(8) To the extent that an MNE Group—

(a) was treated as an In Scope MNE Group pursuant to subsection (1), and prior to consideration of this subsection (8), for one or more fiscal years beginning on or after 1 January 2025; and

(b) would otherwise have ceased to be treated as an In Scope MNE Group in a fiscal year subsequent to the fiscal year described in paragraph (a), whether due to the failure of the MNE Group to meet the requirements of subsection (1) or due to the application of section 13,

the Filing Bermuda Constituent Entity may make an annual election to treat the MNE Group as an In Scope MNE Group for such subsequent year and any future fiscal years.

(9) An election under subsection (8)—

(a) may not be made on behalf of a Bermuda Constituent Entity Group for the fiscal year unless such elections are made by or on behalf of all Bermuda Constituent Entity Groups within the In Scope MNE Group for the fiscal year;

(b) shall only be valid if the MNE Group was treated as an In Scope MNE Group for the immediately preceding fiscal year, whether due to the application of subsection (1) or due to an election under subsection (8).

[Section 11 amended by 2025 : 12 s. 7 effective 29 July 2025]

Multi-Parented MNE Group

12 (1) This section applies in relation to Multi-Parented MNE Groups.

(2) An entity (other than an excluded entity) shall be treated as a constituent entity if it is consolidated on a line-by-line basis by the Multi-Parented MNE Group or its controlling interests are held by entities in the Multi-Parented MNE Group.

(3) The consolidated financial statements of the Multi-Parented MNE Group shall be the consolidated financial statements referred to in the definition of stapled structure or dual-listed arrangement (as relevant) prepared under an acceptable financial accounting standard, which is deemed to be the accounting standard of the ultimate parent entity.

(4) The ultimate parent entities of the separate groups that comprise the Multi-Parented MNE Group shall be the ultimate parent entities of the Multi-Parented MNE Group; and when applying these rules in respect of a Multi-Parented MNE Group, references to an ultimate parent entity shall apply, as required, as if they were references to multiple ultimate parent entities.

MNE Group with a limited international footprint

13 (1) Subject to subsection (4), an MNE Group shall not be treated as an In Scope MNE Group for a fiscal year in which—

(a) the MNE Group has constituent entities located in five or fewer jurisdictions outside the reference jurisdiction;

(b) the sum of the net book values of tangible assets of all constituent entities located in all jurisdictions other than the reference jurisdiction does not exceed EUR 50 million; and

(c) no parent entity is required to apply an IIR with respect to any constituent entity of the MNE Group located in Bermuda.

(2) For the purposes of this section—

(a) the location of a constituent entity is determined by applying section 14;

(b) the reference jurisdiction is identified in respect of the first fiscal year in which the MNE Group first meets the requirements of section 11(1), as determined without regard to the application of this section, and shall remain unchanged over the five-year period referenced in subsection (4);

(c) the five or fewer jurisdictions located outside the reference jurisdiction are not required to be the same jurisdictions throughout the five-year period referenced in subsection (4);

(d) the following constituent entities are not taken into account for the purposes of determining the number of jurisdictions in which the MNE Group has constituent entities—

(i) stateless constituent entities;

(ii) investment entities that are not excluded entities; and

(iii) joint ventures and joint venture subsidiaries; and

(e) minority-owned constituent entities are taken into account for the purposes of determining the number of jurisdictions in which the MNE Group has constituent entities.

(3) For the purposes of subsection (1)(b)—

(a) tangible assets of minority-owned constituent entities are taken into account;

(b) tangible assets of stateless constituent entities are considered held by constituent entities located in a jurisdiction other than the reference jurisdiction, except to the extent the MNE Group demonstrates that those tangible assets are physically located in the reference jurisdiction;

(c) tangible assets of the following constituent entities are not taken into account—

(i) investment entities that are not excluded entities; and

(ii) joint ventures and joint venture subsidiaries.

(4) This section shall not apply to the MNE Group for any fiscal year that begins more than five years from the later of—

(a) the first day of the first fiscal year of the MNE Group that begins on or after 1 January 2025; and

(b) the first day of the first fiscal year when the MNE Group first meets the requirements of section 11(1), as determined without regard to the application of this section.

(5) Once commenced, the five-year period described in subsection (4) shall not be suspended by any circumstances.

Determining location of an entity

14 (1) The location of an entity, other than a Bermuda Tax Resident Entity or a flow-through entity shall be determined as follows—

(a) if it is tax resident in a jurisdiction based on its place of management, place of creation or similar criteria, it is located in that jurisdiction; and

(b) in all other cases, it is located in the jurisdiction in which it was created.

(2) The location of an entity that is a flow-through entity shall be determined as follows—

(a) if it is the ultimate parent entity of an MNE Group or it is required to apply an IIR, it is located in the jurisdiction where it was created; and

(b) in all other cases, it shall be treated as a stateless constituent entity.

(3) The location of a permanent establishment, other than a Bermuda Permanent Establishment shall be determined as follows—

(a) if it is described in paragraph (a) of the definition of permanent establishment in section 2, it is located in the jurisdiction where it is treated as a permanent establishment and is taxed under the applicable tax treaty in force;

(b) if it is described in paragraph (b) of the definition of permanent establishment in section 2, it is located in the jurisdiction where it is subject to net basis taxation based on its business presence;

(c) if it is described in paragraph (c) of the definition of permanent establishment in section 2, it is located in the jurisdiction where it is situated; and

(d) if it is described in paragraph (d) of the definition of permanent establishment in section 2, it is considered a stateless permanent establishment.

(3A) A Bermuda Tax Resident Entity shall be regarded as located in Bermuda.

(4) For the purposes of section 13 and this section, where an entity has changed its location during the fiscal year, it shall be located in the jurisdiction where it was located at the beginning of that year.

[Section 14 subsection (3A) inserted by 2025 : 12 s. 8 effective 29 July 2025]

Fiscal transparency classification

15 (1) Subject to subsection (1A), a Filing Bermuda Constituent Entity may elect, as an annual election, to regard—

(a) an entity, including an entity that would otherwise be regarded as fiscally transparent pursuant to this Act as not fiscally transparent; and

(b) an entity, including an entity that would otherwise be regarded as not fiscally transparent pursuant to this Act as fiscally transparent.

(1A) Subsection (1) applies except that, in the case of a Bermuda Tax Resident Entity, the election shall be made by the Filing Bermuda Constituent Entity of the Bermuda Constituent Entity Group which includes the Bermuda Tax Resident Entity and in the case of an entity other than a Bermuda Tax Resident Entity, the election shall be made by the Filing Bermuda Constituent Entity of the Bermuda Constituent Entity Group which includes the Bermuda Constituent Entity which is the holder of the ownership interest in the other entity.

(2) Notwithstanding any other provision of this Act—

(a) an election under subsection (1) may not be made in respect of a permanent establishment;

(b) an election to be regarded as fiscally transparent, shall only apply to a Bermuda Constituent Entity for a fiscal year to the extent described in sections 23(1)(b) and 38(1)(b); and

(c) an election to be regarded as fiscally transparent, shall only apply to an entity (other than a Bermuda Tax Resident Entity) in which a Bermuda Constituent Entity holds an ownership interest for a fiscal year to the extent described in section 24(1)(b).

(3) Partnerships existing under the Partnership Act 1902, the Limited Partnership Act 1883 or the Exempted Partnerships Act 1992 (regardless of whether or not they have separate legal personality), shall be deemed to be fiscally transparent, subject to an election under subsection (1).

(4) Companies incorporated under the Companies Act 1981 or formed under the Limited Liability Company Act 2016, shall be deemed to be not fiscally transparent, subject in each case to an election under subsection (1).

(5) Companies incorporated under the Companies Act 1981 or formed under the Limited Liability Company Act 2016 which are registered under the Segregated Accounts Companies Act 2000, or segregated cell companies incorporated pursuant to a private act, will be regarded as a single entity which is not fiscally transparent, provided that such a company—

(a) may make an annual election under this section to treat—

(i) any segregated accounts within such a company as a separate entity; or

(ii) the company as a separate entity from its segregated accounts; and

(b) may, following an election under paragraph (a), further elect to treat—

(i) a segregated account or accounts treated as a separate entity pursuant to paragraph (a)(i); or

(ii) the company, where it is treated as a separated entity pursuant to paragraph (a)(ii),

as fiscally transparent or not fiscally transparent under subsection (1).

(6) Companies which have registered under the Incorporated Segregated Accounts Act 2019 will be regarded as separate entities that are not fiscally transparent with respect to the company itself and each segregated account, provided that such a company may elect—

(a) to treat the company and/or any segregated account as fiscally transparent or not fiscally transparent under subsection (1); or

(b) to treat the company and all of its segregated accounts as one entity, and may then further elect to treat the resulting entity as fiscally transparent or not fiscally transparent under subsection (1).

(7) Companies incorporated, formed or organised under the laws of a jurisdiction outside Bermuda which have substantially similar characteristics as segregated accounts companies or incorporated segregated accounts companies will be treated in a similar fashion to those companies as described in subsections (5) and (6), provided that as the case may be, an election may be made pursuant to subsection (1) to treat either or both the company and the segregated accounts as fiscally transparent or not fiscally transparent.

(8) A trust governed by the laws of Bermuda shall be deemed to be fiscally transparent to the extent that income of the trust is treated as income of the beneficiary, but shall otherwise be treated as not fiscally transparent, subject to an election under subsection (1).

(9) Subject to subsection (7), an entity, other than a Bermuda Tax Resident Entity—

(a) will be regarded as fiscally transparent, if the jurisdiction in which that entity is located treats the entity as fiscally transparent; or

(b) in all other cases, will be regarded as not fiscally transparent,

subject in either case to an election under subsection (1).

(10) Notwithstanding any provision of this Act other than subsection 15(1), the Agency may prescribe entities (whether in Bermuda or in another jurisdiction) that shall be deemed to be fiscally transparent or not fiscally transparent.

[Section 15 amended by 2025 : 12 s. 9 effective 29 July 2025; Section 15 subsection (5) amended by 2026 : 25 s. 5 effective 29 July 2026]

Changes in Bermuda Constituent Entity Status during a fiscal year

15A (1) To the extent that an entity is treated as a Bermuda Constituent Entity for a portion of the fiscal year, including in those circumstances where the entity only meets—

(a) the requirements to be treated as a Bermuda Tax Resident Entity; or

(b) the requirements of section 9(2)(b) or 10,

for a portion of a fiscal year (but excluding transactions described in section 46(1)), then subsections (2) and (3) shall apply.

(2) For the purposes of determining taxable income or loss of an entity described in subsection (1) for the fiscal year—

(a) the amount described in section 20(a) shall be computed by reference to the net income or loss which would have been determined for the entity if—

(i) the profit and loss statement in the consolidated financial statements of the ultimate parent entity; or

(ii) in the case of an entity for which an election has been made pursuant to section 21(1)(b), the financial statements prepared in accordance with an approved financial accounting standard,

for the fiscal year had been prepared with respect to the portion of the fiscal year in which the entity was treated as a Bermuda Constituent Entity;

(b) the adjustments described in Part 6 (other than the adjustments described in paragraphs (c) and (d) of this subsection) and in Part 7, and the allocated foreign taxes described in section 18, shall be computed by reference to the relevant components of the financial accounting net income or loss amount determined in accordance with paragraph (a);

(c) the adjustments described in sections 28(2)(a), 29 (prior to consideration of the application of section 29(4)), and 33(3) (prior to consideration of the application of section 33(5)) shall be limited to the product of—

(i) the adjustment amounts which, notwithstanding this section, would otherwise have been available to the entity pursuant to the Act for the fiscal year; and

(ii) the amount determined by dividing—

(A) the number of days during the fiscal year when the entity was treated as a Bermuda Constituent Entity, by

(B) the total number of days during the fiscal year or, if less, the number of days in which the entity was registered on a register maintained by the Registrar of Companies during the fiscal year, provided that where one or more entities amalgamates or merges, from the effective date of the amalgamation or merger

(as the case may be) only the amalgamated company or the surviving company (as the case may be) shall be regarded as being registered for the purposes of this subsection; and

(d) the adjustments described in sections 29(4)) and 33(5)) shall be applied by reference to the amounts described in paragraphs (a), (b), and (c) above.

(3) For the purposes of determining adjusted creditable foreign taxes of an entity described in subsection (1) for the fiscal year, the amounts described in section 17 shall be computed by reference to the current and deferred tax expense or benefit related to creditable foreign taxes which has been accrued in the financial accounting net income or loss determined pursuant to subsection (2)(a), subject to any election made pursuant to subsection (4).

(4) For the purposes of applying subsection (2), the Filing Bermuda Constituent Entity may elect to replace subsection (2)(a) with the following—

(a) the amount described in section 20(a) shall be the product of—

(i) the net income or loss determined for the entity—

(A) in preparing the profit and loss statement in the consolidated financial statements of the ultimate parent entity; or

(B) in the case of an entity for which an election has been made pursuant to section 21(1)(b), in accordance with an approved financial accounting standard,

for the fiscal year; and

(ii) the amount determined by dividing—

(A) the number of days during the fiscal year when the entity was treated as a Bermuda Constituent Entity; by

(B) the total number of days during the fiscal year or, if less, the number of days in which the entity was registered on a register maintained by the Registrar of Companies during the fiscal year, provided that where one or more entities amalgamates or merges, from the effective date of the amalgamation or merger (as the case may be) only the amalgamated company or the surviving company (as the case may be) shall be regarded as being registered for the purposes of this subsection.

[Section 15A inserted by 2025 : 12 s. 10 effective 29 July 2025; Section 15A subsection (1) amended by 2026 : 25 s. 6 effective 29 July 2026]

PART 4

TAX CREDITS

Foreign tax credits

16 A Bermuda Constituent Entity Group's foreign tax credit for a fiscal year shall be the sum of the allocated creditable foreign taxes for such fiscal year for all Bermuda Constituent Entities comprising the Bermuda Constituent Entity Group, provided that a Bermuda Constituent Entity Group's foreign tax credit may not exceed the amount computed pursuant to section 4(2)(a) for such fiscal year and may not be less than zero.

[Section 16 amended by 2025 : 29 s. 6 effective 11 December 2025]

Adjusted creditable foreign taxes

17 (1) The adjusted creditable foreign taxes of a constituent entity for a fiscal year shall be equal to the current tax expense or benefit accrued in its financial accounting net income or loss with respect to creditable foreign taxes adjusted by—

(a) adding—

(i) any creditable foreign taxes accrued as an expense in the profit before taxation in the financial accounts;

(ii) any credit or refund in respect of a qualified refundable tax credit recorded as a reduction in current tax expense in the financial accounting net income or loss; and

(iii) any amount of creditable foreign taxes paid during the fiscal year related to an uncertain tax position where that amount has been treated for a prior fiscal year as a reduction to creditable foreign taxes pursuant to paragraph (b)(v);

(b) subtracting—

(i) any current tax expense for creditable foreign taxes not expected to be paid within three years of the last day of the fiscal year;

(ii) any credit or refund with respect to a non-qualified refundable tax credit that is not recorded as a reduction to current tax expense in the financial accounting net income or loss;

(iii) the amount of current tax expense with respect to an item of income excluded from the computation of taxable income or loss;

(iv) any amount of creditable foreign taxes refunded or credited (other than qualified refundable tax credits) that were not treated as adjustments to current tax expense; and

(v) any current tax expense relating to uncertain tax positions;

(c) adding or subtracting

(i) the deferred tax adjustment, as described in subsection (2); and

(ii) creditable foreign taxes recorded in equity or other comprehensive income relating to amounts included in the computation of taxable income or loss.

(2) The deferred tax adjustment for a constituent entity for the fiscal year is equal to the deferred tax expense or benefit accrued in its financial accounting net income or loss with respect to creditable foreign taxes for the fiscal year, adjusted as follows—

(a) to the extent that deferred tax expense or benefit has been accrued in the financial accounts of the constituent entity at an applicable rate in excess of 15% for the fiscal year, such deferred tax expense or benefit shall be recast at 15%;

(b) a deferred tax asset that has been recorded at a rate lower than 15% may be recast at 15% in the fiscal year such deferred tax asset is recorded, if the taxpayer can demonstrate that the deferred tax asset is attributable to a taxable loss; and the deferred tax adjustment is reduced by the amount that a deferred tax asset is increased due to being recast;

(c) the following items shall be excluded from the determination of the deferred tax adjustment

(i) the amount of deferred tax expense or benefit with respect to items excluded from the computation of taxable income or loss;

(ii) the amount of deferred tax expense or benefit with respect to disallowed accruals and unclaimed accruals;

(iii) the impact of a valuation adjustment or accounting recognition adjustment with respect to a deferred tax asset;

(iv) the amount of deferred tax expense or benefit arising from a re-measurement with respect to a change in the applicable foreign tax rate provided, however, that the amount of deferred tax expense that has resulted from an increase to the applicable foreign tax rate shall be treated as an adjustment to creditable foreign taxes in the fiscal year in which such amount is paid; and this adjustment shall only be applicable when the deferred tax amount was originally recorded at a rate less than 15% and is limited to an amount that is equal to an increase of deferred tax expense up to such deferred tax expense recast at 15%; and

(v) the amount of deferred tax expense or benefit related to the generation and use of tax credits;

(d) the deferred tax adjustment shall be adjusted as follows—

(i) increased by the amount of any disallowed accrual or unclaimed accrual paid during the fiscal year; and

(ii) reduced by the amount that would be a reduction to the deferred tax adjustment due to recognition of a deferred tax asset for a current

year loss, where a deferred tax asset has not been recognised with respect to that loss because the recognition criteria are not met.

(3) For purposes of this section—

(a) creditable foreign taxes shall be determined in accordance with the relevant laws and regulations of the taxing foreign jurisdiction provided that, with the exception of Bermuda source income, such determination shall be made prior to consideration of any tax credits that would otherwise be permissible in such foreign jurisdiction with respect to corporate income taxes chargeable pursuant to this Act; and

(b) no amount of adjusted creditable foreign taxes may be taken into account more than once.

Allocation of adjusted creditable foreign taxes

18 (1) The allocated creditable foreign taxes of a Bermuda Constituent Entity shall be equal to the adjusted creditable foreign taxes of the Bermuda Constituent Entity as determined in accordance with section 17 and as further modified for allocations of adjusted creditable foreign taxes—

(a) to the Bermuda Constituent Entity from another constituent entity in accordance with subsection (2); and

(b) from the Bermuda Constituent Entity to another constituent entity in accordance with subsection (3).

(2) For the purposes of subsection (1)(a)—

(a) the amount of any adjusted creditable foreign taxes of the main entity of a Bermuda Permanent Establishment which are related to taxable income or loss of the Bermuda Permanent Establishment shall be allocated to that Bermuda Permanent Establishment;

(b) to the extent that the Bermuda Constituent Entity is the constituent entity-owner of a tax transparent entity, the adjusted creditable foreign taxes of the tax transparent entity related to taxable income or loss allocated to the Bermuda Constituent Entity pursuant to sections 24(3) and 25 shall be allocated to the Bermuda Constituent Entity;

(c) to the extent that the Bermuda Constituent Entity is a hybrid entity, the adjusted creditable foreign taxes of its constituent entity-owners related to taxable income or loss of the Bermuda Constituent Entity shall be allocated to the Bermuda Constituent Entity;

(d) the amount of any adjusted creditable foreign taxes of a direct constituent entity-owner of the Bermuda Constituent Entity related to distributions from the Bermuda Constituent Entity shall be allocated to the Bermuda Constituent Entity; and

(e) to the extent that the constituent entity-owners of the Bermuda Constituent Entity are subject to a controlled foreign company tax

regime, the adjusted creditable foreign taxes of the Bermuda Constituent Entity's direct or indirect constituent entity-owners under a controlled foreign company tax regime on their share of the Bermuda Constituent Entity's income shall be allocated to the Bermuda Constituent Entity.

(3) For the purposes of subsection (1)(b)—

(a) the amount of any adjusted creditable foreign taxes of a Bermuda Constituent Entity with respect to taxable income or loss of a permanent establishment for which the Bermuda Constituent Entity is the main entity and for which a branch exemption election has been made shall be allocated to the permanent establishment;

(b) to the extent that the Bermuda Constituent Entity is a tax transparent entity, the adjusted creditable foreign taxes of the Bermuda Constituent Entity related to taxable income or loss allocated to its constituent entity-owners pursuant to section 23(4) shall be allocated to the constituent entity-owners;

(c) to the extent that the Bermuda Constituent Entity is a constituent entity-owner of a hybrid entity, the adjusted creditable foreign taxes of the Bermuda Constituent Entity related to taxable income or loss of the hybrid entity shall be allocated to the hybrid entity; and

(d) the amount of any adjusted creditable foreign taxes of the Bermuda Constituent Entity related to distributions from another constituent entity of which the Bermuda Constituent Entity is a direct constituent entity-owner shall be allocated to the distributing constituent entity.

[Section 18 repealed and substituted by 2025 : 29 s. 7 effective 11 December 2025; Section 18 subsection (2)(b) amended by 2026 : 25 s. 7 effective 29 July 2026]

Qualified refundable tax credits

19 *[Repealed by 2025 : 29 s. 8]*

[Section 19 repealed by 2025 : 29 s. 8 effective 11 December 2025]

PART 5

TAXABLE INCOME OR LOSS

Definition of taxable income or loss

20 The taxable income or loss of a Bermuda Constituent Entity shall be determined by—

(a) computing the financial accounting net income or loss determined for the fiscal year in accordance with section 21 which shall reflect such allocations, exclusions and/or inclusions as are necessary in accordance with this Part 5;

(b) adjusting the amount in paragraph (a) in accordance with Part 6; and

(c) applying such further allocations of the adjusted amount determined pursuant to paragraph (b) in accordance with Part 7 as may be required.

Computation of financial accounting net income or loss

21 (1) The financial accounting net income or loss for a Bermuda Constituent Entity that is a Bermuda Tax Resident Entity shall be—

(a) the net income or loss determined for the Bermuda Constituent Entity in preparing the profit and loss statement in the consolidated financial statements of the ultimate parent entity for the fiscal year; or

(b) at the election of the Filing Bermuda Constituent Entity, the net income or loss determined for the Bermuda Constituent Entity in accordance with an approved financial accounting standard for the fiscal year, provided that—

(i) if the use of the approved financial accounting standard results in permanent differences in excess of EUR 1 million from the accounting standard used in the consolidated financial statements of the ultimate parent entity, the treatment of the relevant items under the approved financial accounting standard must be adjusted to conform to the treatment that would apply under the accounting standard used in the consolidated financial statements of the ultimate parent entity; and

(ii) if the currency of the net income or loss determined in accordance with an approved financial accounting standard differs from that used in the consolidated financial statements of the ultimate parent entity, then the net income or loss must be converted to the same currency as that used in the consolidated financial statements of the ultimate parent entity by applying the applicable provisions of the financial accounting standard used in preparation of such consolidated financial statements;

(iii) the election described in this paragraph (b) shall be a five-year election,

adjusted, in either case as set forth in paragraph (a) and (b), in accordance with subsection (2).

(2) For the purposes of subsection (1)—

(a) any consolidated adjustments eliminating intra-group transactions are not taken into account in the computation of the financial accounting net income or loss of the Bermuda Constituent Entity;

(b) adjustments to income or expense attributable to purchase accounting for an acquired business (irrespective of when the business was acquired) that are reflected in the consolidated accounts of the In Scope MNE Group, rather than the separate accounts of the Bermuda Constituent Entity itself, are not taken into account in the computation

of the financial accounting net income or loss of the Bermuda Constituent Entity;

(c) in the case of a business combination for which the acquisition date is prior to 1 December 2021 the Bermuda Constituent Entity may use the carrying value reflected in its separate accounts after the application of "push down" accounting, if the financial accounting standard used by the ultimate parent entity of the In Scope MNE Group permits the use of "push down" accounting in the preparation of its consolidated financial statements and the In Scope MNE Group does not have sufficient records to determine its financial accounting net income or loss with reasonable accuracy based on the unadjusted carrying values of the acquired assets and liabilities. A Bermuda Constituent Entity may not take into account "push down" adjustments to the carrying value of assets and liabilities attributable to the purchase of a business if the acquisition date is on or after 1 December 2021;

(d) items of income and expense, other than those attributable to purchase accounting, that are reflected in the consolidated accounts of the In Scope MNE Group, rather than the separate accounts of the Bermuda Constituent Entity itself, may be taken into account in computing the financial accounting net income or loss of the Bermuda Constituent Entity only to the extent they can be reliably and consistently traced to the Bermuda Constituent Entity; and

(e) items of income and expense that are reported in other comprehensive income (rather than in the profit and loss statement) are excluded from the computation of financial accounting net income or loss and, with the exception of any adjustment made pursuant to section 27(2)(a), from the computation of taxable income or loss.

(3) The financial accounting net income or loss for a Bermuda Constituent Entity that is a Bermuda Permanent Establishment shall be the amount allocated from the entity described in subsection (4) to the Bermuda Permanent Establishment in accordance with subsection (5).

(4) An entity described in this subsection is—

(a) the main entity of a Bermuda Permanent Establishment through which the business of the entity is wholly or partly carried out;

(b) a constituent entity member of an In Scope MNE Group; and

(c) not a Bermuda Tax Resident Entity, other than a Bermuda Constituent Entity which is regarded as fiscally transparent pursuant to section 15.

(5) The financial accounting net income or loss of an entity described in subsection (4) shall be allocated to a Bermuda Permanent Establishment in an amount equal to—

(a) the net income or loss—

(i) reflected in the separate financial accounts of the Bermuda Permanent Establishment prepared in accordance with an acceptable financial accounting standard, or an approved financial accounting standard subject to the adjustments described in subsection (1)(b)(i) and (ii); or

(ii) if the Bermuda Permanent Establishment does not have separate financial accounts which meet the requirements of subparagraph (i), that would have been reflected in the separate financial accounts of the Bermuda Permanent Establishment if prepared on a standalone basis and in accordance with the accounting standard used in the preparation of the consolidated financial accounts of the ultimate parent entity of the In Scope MNE Group;

(b) adjusted (if necessary) to reflect only the amounts and items of income and expense that would have been attributed to the Bermuda Permanent Establishment in accordance with Article 7 of the OECD Model Tax Convention.

(6) To the extent that—

(a) a Bermuda Constituent Entity is treated as a controlled foreign corporation during the fiscal year pursuant to sections 957 or 953(c) of the U.S. Internal Revenue Code; and

(b) a constituent entity-owner of the Bermuda Constituent Entity is a U.S. shareholder, as such term is defined in section 951(b) of the U.S. Internal Revenue Code, and owns, within the meaning of section 958(a) of the U.S. Internal Revenue Code, an ownership interest in the Bermuda Constituent Entity during the fiscal year,

an annual election may be made to reduce the financial accounting net income or loss of the Bermuda Constituent Entity determined in accordance with this section, notwithstanding this subsection, by an amount corresponding to the proportionate ownership interest of the constituent entity-owner, provided an election pursuant to this subsection shall be made by the Filing Bermuda Constituent Entity and may only be made either for the first fiscal year of the Bermuda Constituent Entity which begins on or after 1 January 2025 and prior to 1 January 2026 or for the immediately succeeding fiscal year, or both.

(7) To the extent that the financial accounts of a Bermuda Constituent Entity—

(a) are maintained on the basis of a different financial reporting period than the fiscal year used to prepare the consolidated financial statements; and

(b) are not included in the consolidated financial statements (including, without limitation, where the Bermuda Constituent Entity is excluded from the consolidated financial statements on materiality grounds),

the determination of the financial accounting net income or loss of the Bermuda Constituent Entity for the fiscal year shall be made on the basis of the financial accounting net income or loss reported in the financial accounts of the Bermuda

Constituent Entity for its financial reporting period which ends during the fiscal year used to prepare the consolidated financial statements, provided that no item of income or loss should be included in the financial accounting net income or loss of the Bermuda Constituent Entity for more than one fiscal year.

(8) Where the financial accounts of a Bermuda Constituent Entity are maintained on the basis of a different financial reporting period than the fiscal year used to prepare the consolidated financial statements, the determination of the financial accounting net income or loss of the Bermuda Constituent Entity for a fiscal year shall be made on a basis that is consistent with the accounting convention which is used to include the financial accounts of the Bermuda Constituent Entity for its financial reporting period in the consolidated financial statements for the fiscal year; and for this purpose if the financial accounts of the Bermuda Constituent Entity for its financial reporting period—

(a) are fully included in the consolidated financial statements for a fiscal year, then the determination of the financial accounting net income or loss of the Bermuda Constituent Entity for the fiscal year shall be made on the basis of the financial accounting net income or loss reported in the financial accounts of the Bermuda Constituent Entity for its financial reporting period, notwithstanding that some of the financial accounting net income or loss will have been earned prior to the beginning of the fiscal year used to prepare the consolidated financial statements; or

(b) are segregated to align with the fiscal year used to prepare the consolidated financial statements, such that a portion of each of the two financial reporting periods of the Bermuda Constituent Entity which straddle the fiscal year used to prepare the consolidated financial statements are combined for purposes of inclusion in the consolidated financial statements, then the determination of the financial accounting net income or loss of the Bermuda Constituent Entity for the fiscal year shall be made on the basis of the portions of the two financial reporting periods which have been combined to prepare the consolidated financial statements.

[Section 21 amended by 2025 : 12 s. 11 effective 29 July 2025; Section 21 subsection (7) inserted by 2025 : 29 s. 9 effective 11 December 2025; Section 21 subsection (8) inserted by 2026 : 25 s. 8 effective 29 July 2026]

Permanent establishments

22 (1) To the extent that a Bermuda Constituent Entity is not a flow-through entity and is the main entity of a permanent establishment through which the business of the Bermuda Constituent Entity is wholly or partly carried out, no portion of the financial accounting net income or loss of the Bermuda Constituent Entity (including any financial accounting net income or loss that is reflected in the separate financial accounts of the permanent establishment, or would have been reflected in the separate financial accounts of the permanent establishment if prepared on a standalone basis and in accordance with the accounting standard used in the preparation of the consolidated financial accounts of the ultimate parent entity), shall be allocated to the permanent

establishment unless a branch exemption election has been made with respect to the permanent establishment.

(2) To the extent a branch exemption election has been made for the Bermuda Constituent Entity described in subsection (1) with respect to a permanent establishment described in paragraphs (a) or (b) of the permanent establishment definition in section 2, the Bermuda Constituent Entity's financial accounting net income or loss—

(a) reflected in the separate financial accounts of the permanent establishment, prepared in accordance with an acceptable financial accounting standard or, if the permanent establishment does not have separate financial accounts;

(b) that would have been reflected in its separate financial accounts if prepared on a standalone basis and in accordance with the accounting standard used in the preparation of the consolidated financial accounts of the ultimate parent entity,

shall be allocated to the permanent establishment and shall be excluded from the determination of the amount described in section 21 with respect to the Bermuda Constituent Entity.

(3) The allocation of net income or loss described in subsection (2) shall be adjusted (if necessary) to reflect only the amounts and items of income and expense that are attributable to the permanent establishment in accordance with the applicable tax treaty or domestic law of the jurisdiction where it is located regardless of the amount of income subject to tax and the amount of deductible expenses in that jurisdiction.

(4) To the extent a branch exemption election has been made for the Bermuda Constituent Entity described in subsection (1) with respect to a permanent establishment described in paragraph (c) or (d) of the permanent establishment definition in section 2, the Bermuda Constituent Entity's financial accounting net income or loss shall be allocated to the permanent establishment in an amount equal to the amount determined pursuant to subsection (2), adjusted (if necessary) to reflect only the amounts and items of income and expense that would have been attributed to it in accordance with Article 7 of the OECD Model Tax Convention; financial accounting net income or loss allocated to a permanent establishment in accordance with this subsection shall be excluded from the determination of the amount described in section 21 with respect to the Bermuda Constituent Entity.

[Section 22 amended by 2025 : 12 s. 12 effective 29 July 2025]

Bermuda flow-through entities

23 (1) To the extent that a Bermuda Constituent Entity (other than a Bermuda Permanent Establishment) is regarded as fiscally transparent pursuant to section 15, prior to consideration of section 15(2)—

(a) the financial accounting net income or loss of the Bermuda Constituent Entity shall be allocated between the Bermuda Constituent Entity and either the owners of the Bermuda Constituent Entity, or one or more permanent establishments with respect to which the Bermuda

Constituent Entity is the main entity, in accordance with subsections (2) through (6);

(b) the Bermuda Constituent Entity shall be regarded as fiscally transparent for a fiscal year to the extent its financial accounting net income or loss has been allocated to its owners or permanent establishments in accordance with paragraph (a), such that the portion allocated to its owners or permanent establishments shall be excluded from the determination of the amount described in section 21 with respect to the Bermuda Constituent Entity; and

(c) subject to section 38, the Bermuda Constituent Entity shall not be regarded as fiscally transparent for a fiscal year to the extent its financial accounting net income or loss has been allocated to the Bermuda Constituent Entity in accordance with paragraph (a), and the portion allocated to the Bermuda Constituent Entity shall be included in the determination of the amount described in section 21 with respect to the Bermuda Constituent Entity.

(2) For purposes only of this subsection, the financial accounting net income or loss of the Bermuda Constituent Entity described in subsection (1) shall be allocated to the owners of the Bermuda Constituent Entity in accordance with their ownership interests, provided that this subsection shall—

(a) not apply if the Bermuda Constituent Entity is the ultimate parent entity of an In Scope MNE Group;

(b) not apply with respect to ownership interests in the Bermuda Constituent Entity which are held, either directly or through a tax transparent structure, by the ultimate parent entity, provided that the ultimate parent entity is a flow-through entity;

(c) not apply to constituent entity-owners of the Bermuda Constituent Entity; and

(d) only apply to owners that hold their ownership interests in the Bermuda Constituent Entity directly or through a tax transparent structure.

(3) To the extent that the Bermuda Constituent Entity described in subsection (1) is the main entity of a permanent establishment (other than a Bermuda Permanent Establishment) for which a branch exemption election has been made, its financial accounting net income or loss, as adjusted pursuant to the application of subsection (2), shall be allocated to the permanent establishment in accordance with section 22 (excluding section 22(1)).

(4) To the extent that the Bermuda Constituent Entity described in subsection (1) is a tax transparent entity and is not the ultimate parent entity of an In Scope MNE Group, its financial accounting net income or loss, as adjusted pursuant to the application of subsections (2) and (3), shall be allocated to the constituent entity-owners of the Bermuda Constituent Entity in accordance with their ownership interests.

(5) To the extent that the Bermuda Constituent Entity described in subsection (1) is—

(a) a tax transparent entity that is the ultimate parent entity of the In Scope MNE Group (or would be the ultimate parent entity of such In Scope MNE Group but for the fact that its controlling interests are held by an excluded entity); or

(b) a reverse hybrid entity,

its financial accounting net income or loss, as adjusted pursuant to the application of subsections (2) and (3), shall be included in the determination of the amount described in section 21 with respect to the Bermuda Constituent Entity.

(6) Subsections (4) and (5) shall be applied separately with respect to each ownership interest in the Bermuda Constituent Entity.

[Section 23 subsection (2) repealed and substituted by 2025 : 12 s. 13 effective 29 July 2025]

Non-Bermuda fiscally transparent entities owned by Bermuda Constituent Entities

24 (1) To the extent that a Bermuda Constituent Entity holds an ownership interest in an entity (other than a Bermuda Tax Resident Entity) that is regarded as fiscally transparent pursuant to section 15, prior to consideration of section 15(2)—

(a) the financial accounting net income or loss of the other entity described in this subsection (1) shall be allocated to the Bermuda Constituent Entity which holds the ownership interest in accordance with subsections (2) and (3); and

(b) the other entity described in this subsection (1) shall be regarded as fiscally transparent for a fiscal year only to the extent its financial accounting net income or loss has been allocated to the Bermuda Constituent Entity in accordance with paragraph (a), such that the portion allocated to the Bermuda Constituent Entity shall be included in the determination of the amount described in section 21 with respect to the Bermuda Constituent Entity.

(2) To the extent that the entity in which the Bermuda Constituent Entity holds an ownership interest is—

(a) not the ultimate parent entity of an In Scope MNE Group; and

(b) not owned by the ultimate parent entity of an In Scope MNE Group, either directly or through a tax transparent structure,

the financial accounting net income or loss described in subsection (1)(a) shall be allocated to the Bermuda Constituent Entity in accordance with its ownership interest. This subsection shall only apply if the Bermuda Constituent Entity holds its ownership interests in the other entity described in subsection (1) directly or through a tax transparent structure and shall not apply to the extent that the Bermuda Constituent Entity is a constituent entity-owner of the other entity.

(3) To the extent that the Bermuda Constituent Entity is a constituent entity-owner in the other entity described in subsection (1) and such other entity is a tax transparent entity and is not the ultimate parent entity of an In Scope MNE Group, the financial accounting net income or loss described in subsection (1)(a) shall be allocated to the Bermuda Constituent Entity in accordance with its ownership interests.

[Section 24 section heading amended by 2026 : 25 s. 9 effective 29 July 2026]

Bermuda fiscally transparent entities owned by Bermuda Constituent Entities

25 To the extent that a Bermuda Constituent Entity holds an ownership interest in a Bermuda Tax Resident Entity that is regarded as fiscally transparent pursuant to section 15, the financial accounting net income or loss of the Bermuda Tax Resident Entity shall be allocated to the Bermuda Constituent Entity which holds the ownership interest in accordance with its ownership interest.

[Section 25 section heading amended by 2026 : 25 s. 10 effective 29 July 2026]

PART 6

TAXABLE ADJUSTMENTS

General principles applicable to adjustments

26 (1) The taxable income or loss of a Bermuda Constituent Entity for a fiscal year shall be adjusted with respect to qualified refundable tax credits, as follows—

(a) first, any income or expense included in financial accounting net income or loss for the fiscal year with respect to—

(i) the substance-based tax credit;

(ii) the community development tax credit; and

(iii) any other qualified refundable tax credits,

shall be excluded from the determination of taxable income or loss for the fiscal year;

(b) second, with the exception of any tax credit benefits described in paragraph (c)(i) through (iv)—

(i) the accrued substance-based tax credit benefit of the Bermuda Constituent Entity for the fiscal year;

(ii) the community development tax credit benefit of the Bermuda Constituent Entity for the fiscal year; and

(iii) the face value of any other qualified refundable tax credit benefit entitlements derived by the Bermuda Constituent Entity for the fiscal year,

shall be included in the determination of taxable income or loss for the fiscal year;

(c) third, with respect to each tax credit benefit—

(i) which is described in paragraph (b)(i) or (iii);

(ii) which relates to the acquisition or construction of assets;

(iii) for which the Bermuda Constituent Entity engaged in the activities that generated the tax credit benefit; and

(iv) for which the Bermuda Constituent Entity has an accounting policy of reducing the carrying value of its assets in respect of such tax credit benefit, or recognising the tax credit benefit as deferred income, such that the income from the tax credit benefit is recognised over the productive life of the asset,

by including in the determination of taxable income or loss for the fiscal year, as well as any subsequent fiscal years, the amount determined by applying the accounting policy described in subparagraph (iv) to the tax credit benefit.

(2) Non-qualified refundable tax credits shall not be treated as income in the computation of taxable income or loss of a Bermuda Constituent Entity.

(3) If an election has not been made pursuant to section 33(8) with respect to a Bermuda Constituent Entity, the Filing Bermuda Constituent Entity shall not be eligible to make any election under sections 29 and 34 in respect of the Bermuda Constituent Entity for periods prior to 1 October 2023.

(4) To the extent that a Bermuda Constituent Entity is the main entity of a permanent establishment (other than a Bermuda Permanent Establishment), any adjustments made by the Bermuda Constituent Entity pursuant to sections 29, 33, 34, and/or 35 shall be reduced to the extent such adjustments are related to amounts reflected in the separate financial accounts described in section 22(2)(a) or (b), as appropriate.

(5) No item of income or loss, including any allocation of an item of income or loss or adjustment to an item of income or loss pursuant to any section of this Act, may be taken into account more than once for purposes of calculating net taxable income or loss of the Bermuda Constituent Entities of an In Scope MNE Group.

[Section 26 subsection (3) repealed and substituted by 2025 : 12 s. 14 effective 29 July 2025; Section 26 subsection (1) repealed and substituted by 2025 : 29 s. 10 effective 11 December 2025]

Adjustments to financial accounting net income or loss

27 (1) A Bermuda Constituent Entity's financial accounting net income or loss is adjusted by removal of the following items—

(a) net taxes expense or benefit;

(b) excluded dividends;

(c) excluded equity gain or loss;

(d) gain or loss from the disposition of assets and liabilities excluded under sections 43 and 44;

(e) asymmetric foreign currency gains or losses;

(f) policy disallowed expenses.

(2) A Bermuda Constituent Entity's financial accounting net income or loss shall be further adjusted—

(a) by including the net gain or loss (as increased or decreased by any associated net taxes expense), for the fiscal year in respect of all property, plant and equipment that arises under an accounting method or practice that—

(i) periodically adjusts the carrying value of such property to its fair value;

(ii) records the changes in value in other comprehensive income; and

(iii) does not subsequently report the gains or losses recorded in other comprehensive income through profit and loss;

(b) with respect to pension expense or income, by—

(i) excluding any pension expense or income included in financial accounting net income or loss for the fiscal year;

(ii) deducting contributions made by the Bermuda Constituent Entity to pension funds during the fiscal year; and

(iii) adding surplus distributions received by the Bermuda Constituent Entity from pension funds during the fiscal year, but only to the extent such pension funds were in a surplus position at the time of the distribution,

provided that the adjustments in this paragraph shall only apply with respect to pension plans that are provided through a pension fund and shall not apply to pension expense or income related to other pension arrangements (such as where pension payments are made directly by the Bermuda Constituent Entity to former employees).

(3) In the case of a Bermuda Permanent Establishment, to the extent that the main entity of the Bermuda Permanent Establishment is located in a foreign jurisdiction which would not impose income tax on one or more categories of revenue earned by a Bermuda Constituent Entity for the fiscal year with respect to the international operation of ships, the financial accounting net income or loss of the Bermuda Permanent Establishment for the fiscal year shall be adjusted by—

(a) excluding the categories of revenue earned by the Bermuda Permanent Establishment for the fiscal year which—

(i) are consistent with the categories of revenue identified in the income tax laws (or related provisions) of the foreign jurisdiction as excludible

for income tax purposes if earned by a Bermuda Constituent Entity with respect to the international operation of ships; or

(ii) are described in Article 8 of the OECD Model Tax Convention, but only to the extent that the income tax laws (or related provisions) of the foreign jurisdiction do not specifically identify the categories of revenue which are excludible for income tax purposes if earned by a Bermuda Constituent Entity with respect to the operation of ships in international traffic; and

(b) excluding expenses incurred by the Bermuda Permanent Establishment for the fiscal year in connection with the revenues determined in accordance with paragraph (a).

[Section 27 amended by 2025 : 29 s. 11 effective 11 December 2025]

Prior period errors and changes in accounting principles

28 (1) A Bermuda Constituent Entity's financial accounting net income or loss shall be adjusted for prior period errors and change in accounting principles by adjusting for all changes in the opening equity at the beginning of the fiscal year of a constituent entity attributable to—

(a) a correction of an error in the determination of financial accounting net income or loss in a previous fiscal year that affected the income or expenses includible in the computation of taxable income or loss for such fiscal year;

(b) a change in accounting principle or policy that affected income or expenses, gains or losses includible in the computation of taxable income or loss in a previous financial year; or

(c) a change in the accounting standard used in the financial statements used in the calculation of financial accounting net income or loss pursuant to section 21.

(2) Subject to section 29, the adjustment described in subsection (1) shall be accounted for as follows—

(a) to the extent the adjustment—

(i) relates to a change in the opening equity in a fiscal year which begins on or after the first day of the first fiscal year in which the In Scope MNE Group meets the requirements of section 11(1), subject to section 13, and

(ii) results in an increase in taxable income or a decrease in taxable loss,

such adjustment must be taken into account in taxable income or loss ratably over the four-fiscal year period beginning with the fiscal year for which the change in opening equity is recognised in the Bermuda Constituent Entity's financial statements used to determine financial accounting net income or loss, provided that if, in any fiscal year, the

Bermuda Constituent Entity ceases to engage in the trade or business that is the subject of an adjustment, the Bermuda Constituent Entity must take into account for such fiscal year any portion of the adjustment not taken into account in taxable income or loss in a previous fiscal year;

(b) in all other cases, such adjustment must be taken into account in full in the fiscal year for which the change in opening equity is recognised in the Bermuda Constituent Entity's financial statements used to determine financial accounting net income or loss.

Adjustments due to IFRS 17 and LDTI

29 (1) Where a Bermuda Constituent Entity implements IFRS 17 or Long Duration Targeted Improvements (LDTI) either in accordance with the acceptable financial accounting standard utilised in the UPE's consolidated financial statements or where it is implemented in financial statements being used for the purposes of the calculation of financial accounting net income or loss, and such implementation gives rise to a change in equity described in section 28(1)(c), the Filing Bermuda Constituent Entity may elect to adjust the taxable income or loss of the Bermuda Constituent Entity for any cumulative adjustment to retained earnings at the beginning of the current fiscal year that would have affected the amount of taxable income or loss in a previous fiscal year, including for fiscal years preceding the commencement date and such adjustment shall be taken into account ratably over the ten fiscal year period beginning with the fiscal year for which the adjustment is implemented in the Bermuda Constituent Entity's financial statements used to determine its financial accounting net income or loss.

(2) An election pursuant to this section—

(a) must be made separately for each Bermuda Constituent Entity that implemented IFRS 17 or LDTI;

(b) does not include any amount not solely relating to adopting IFRS 17 or LDTI; and

(c) can apply to changes where the financial accounting standard used to determine financial accounting net income or loss adopts new guidance to conform with IFRS 17 or LDTI.

(3) In the case of a Bermuda Constituent Entity implementing IFRS 17 or LDTI in a fiscal year beginning prior to the commencement date, an election under this subsection may be made to the extent the adjustment described in subsection (1) has not reversed as of the commencement date; such adjustment is taken into account ratably over the period beginning with the first fiscal year of the Bermuda Constituent Entity beginning on or after the commencement date and each of the subsequent nine fiscal years.

(4) To the extent that—

(a) the Bermuda Constituent Entity earned taxable income (and did not incur a taxable loss) for the fiscal year, as determined in accordance with section 20 and prior to consideration of any adjustments resulting from the application of this section; and

(b) the adjustments resulting from the application of subsections (1) and (3), prior to consideration of the limitation described in paragraph (c), would reduce the amount described in paragraph (a) by more than 80%;

(c) then—

(i) the adjustments to taxable income for the fiscal year resulting from the application of subsections (1) and (3) shall be limited to 80% of the amount described in paragraph (a); and

(ii) the excess of—

(A) the adjustments to taxable income for the fiscal year resulting from the application of subsections (1) and (3); over

(B) the amount described in subparagraph (i),

shall be included in the determination of the net taxable loss of the Bermuda Constituent Entity for the immediately succeeding Fiscal Year, in accordance with section 6(2)(b)(i).

[Section 29 subsection (1) amended by 2025 : 12 s. 15 effective 29 July 2025]

Stock-based compensation

30 (1) For the purposes of calculating the taxable income or loss of a Bermuda Constituent Entity, the Filing Bermuda Constituent Entity may elect to substitute the amount of stock-based compensation expense recognised in the financial accounts for such fiscal year, with a deduction for stock-based compensation determined in accordance with subsection (2) for a fiscal year.

(2) A deduction shall be allowed for stock-based compensation which has an exercise date during the fiscal year, in an amount equal to the excess of—

(a) the market value of the stock on the exercise date; over

(b) the value of any consideration received in exchange for the stock.

(3) Irrespective of whether an election is made under subsection (1)—

(a) stock-based compensation expense may only be deducted in the calculation of taxable income or loss to the extent it can be reliably and consistently traced to the Bermuda Constituent Entity that received the property, use of property, or services for which the stock-based compensation was provided;

(b) the stock provided does not need to be stock issued by the Bermuda Constituent Entity that incurred the relevant stock-based compensation expense; and

(c) a deduction for stock-based compensation expense is not allowed to a Bermuda Constituent Entity that issued the stock used as compensation unless the Bermuda Constituent Entity received the property or services for which the compensation was paid.

(4) Where an election is made under subsection (1), appropriate adjustments shall be made to ensure that stock-based compensation amounts are not deducted more than once in the calculation of taxable income or loss of a Bermuda Constituent Entity in any one or more fiscal years, including as follows—

(a) in any fiscal year for which the election is in effect, an adjustment shall be made to eliminate any stock-based compensation expense recognised in the financial accounting net income or loss of a Bermuda Constituent Entity for such fiscal year;

(b) where the election is made in a fiscal year which begins—

(i) before the exercise date of one or more particular stock-based compensation transactions; and

(ii) subsequent to one or more previous fiscal years in which some or all of the expense was recognised in the financial accounting net income or loss of the Bermuda Constituent Entity with respect to the particular stock-based compensation transactions and in which such expense was not subject to any adjustment in determining taxable income or loss,

the Bermuda Constituent Entity must recapture an amount equal to the excess of the cumulative amount deducted in the computation of its taxable income or loss in previous fiscal years over the cumulative amount that would have been deducted if the election had been in effect for those fiscal years.

(5) Where the election is made in a fiscal year which begins before the exercise date of one or more particular stock-based compensation transactions, an adjustment shall be required equal to the lesser of—

(a) the amount of expense included in the determination of the amount of an opening tax loss carryforward (if any) as adjusted pursuant to this Act, net of any adjustment made pursuant to section 6(2)(c), for the Bermuda Constituent Entity with respect to the particular stock-based compensation transactions; and

(b) the amount of an opening tax loss carryforward as adjusted pursuant to this Act net of any adjustment made pursuant to section 6(2)(c), for the Bermuda Constituent Entity.

(6) Any adjustment pursuant to subsection (5) shall be applied to reduce (but not below zero) the amount computed by—

(a) adding any opening tax loss carryforward;

(b) subtracting any adjustment made pursuant to section 6(2)(c);

(c) subtracting any adjustments made pursuant to section 6(4)(b) with respect to any fiscal years prior to the fiscal year subject to the election in subsection (5).

(7) To the extent the adjustment determined pursuant to subsection (5) exceeds the amount computed in subsection (6), such excess shall be recaptured in the calculation of taxable income or loss for the fiscal year described in subsection (5).

(8) An election under subsection (1) is an annual election and must be applied consistently to the stock-based compensation of all Bermuda Constituent Entities which are members of the same Bermuda Constituent Entity Group.

[Section 30 subsection (1) amended by 2025 : 12 s. 16 effective 29 July 2025; Section 30 subsection (6) (c) amended by 2026 : 25 s. 11 effective 29 July 2026]

Insurance company adjustments

31 (1) An insurance company shall exclude from the computation of taxable income or loss amounts charged to policyholders for taxes paid by the insurance company in respect of returns to the policyholders.

(2) An insurance company shall include in the computation of taxable income or loss any returns to policyholders that are not reflected in financial accounting net income or loss to the extent the corresponding increase or decrease in liability to the policyholders is reflected in its financial accounting net income or loss.

(3) An insurance company shall exclude from the computation of taxable income or loss any movements in insurance reserves related to either excluded dividends or excluded equity gains or losses, or both, from securities held in respect of a matched insurance contract.

[Section 31 subsection (3) inserted by 2025 : 12 s. 17 effective 29 July 2025]

Additional tier one capital adjustments

32 (1) Amounts recognised as a decrease to the equity of a Bermuda Constituent Entity attributable to distributions paid or payable in respect of additional tier one capital issued by the Bermuda Constituent Entity shall be treated as an expense in the computation of its taxable income or loss.

(2) Amounts recognised as an increase to the equity of a Bermuda Constituent Entity attributable to distributions received or receivable in respect of additional tier one capital held by the Bermuda Constituent Entity shall be included in the computation of its taxable income or loss.

(3) Amounts arising from the conversion to equity or write down of additional tier one capital issued by the Bermuda Constituent Entity, where the pre-specified trigger event occurs shall be excluded from the computation of its taxable income or loss.

(4) Amounts arising from the write up of additional tier one capital issued by the Bermuda Constituent Entity, which was previously written down where the pre-specified trigger event occurred, shall be excluded from the computation of its taxable income or loss.

Economic transition adjustments

33 (1) The taxable income or loss of a Bermuda Constituent Entity which—

(a) is included in a Bermuda Constituent Entity Group during the first fiscal year of the Bermuda Constituent Entity which begins on or after 1 January 2025 ; and

(b) would have been a Bermuda Tax Resident Entity or Bermuda Permanent Establishment on 30 September 2023, had the provisions of this Act been in effect as of such date,

shall be adjusted in accordance with subsections (2) and (3).

(2) The adjustment described in this subsection shall be determined by replacing—

(a) the carrying values (as adjusted in accordance with section 21(2)(a) through (e)) used in the determination of the net income or loss described in section 21(1)(a) or (b), as applicable for the Bermuda Constituent Entity, with respect to each asset (other than those assets described in subsection (3) or (4)) and liability which—

(i) had been recognised by the Bermuda Constituent Entity as of 30 September 2023 in the financial statements prepared in accordance with the accounting standard summarised in section 21(1)(a) or (b), as applicable; or

(ii) would have been recognised by the Bermuda Constituent Entity as of 30 September 2023 had financial statements been prepared in accordance with the accounting standard summarised in section 21(1)(a) or (b), as applicable, with

(b) the fair value as of 30 September 2023 for each asset and liability described in subsection (2)(a).

(3) With respect to each identifiable intangible asset which was owned by the Bermuda Constituent Entity on 30 September 2023—

(a) for each of the first ten fiscal years of the Bermuda Constituent Entity beginning on or after 1 January 2025, to the extent such identifiable intangible asset was held by the Bermuda Constituent Entity at the end of such fiscal year, taxable income or loss shall be increased or decreased, as applicable, by 10% of the amount computed by—

(i) adding the fair value as of 30 September 2023 for such identifiable intangible asset; and

(ii) subtracting the carrying value (as adjusted in accordance with section 21(2)(a) through (e)), if any, that—

(A) was recognised by the Bermuda Constituent Entity as of 30 September 2023 in the financial statements prepared in accordance with the accounting standard summarised in section 21(1)(a) or (b), as applicable, or

(B) would have been recognised by the Bermuda Constituent Entity as of 30 September 2023 had financial statements been prepared in accordance with the accounting standard summarised in Section 21(1)(a) or (b), as applicable; and

(b) to the extent the Bermuda Constituent Entity disposes of such identifiable intangible asset, in whole or in part, taxable income or loss shall be increased or decreased by the negative or positive amount, respectively, computed by—

(i) adding the fair value as of 30 September 2023 for the portion of such identifiable intangible asset disposed of by the Bermuda Constituent Entity;

(ii) adding or subtracting the absolute value of the cumulative positive or negative adjustments, respectively, made pursuant to paragraph (a) in previous fiscal years with respect to the portion of such identifiable intangible asset disposed of by the Bermuda Constituent Entity; and

(iii) subtracting the carrying value described in paragraph (a)(ii) of the portion of such identifiable intangible asset disposed of by the Bermuda Constituent Entity.

(4) No adjustment shall be made pursuant to this section to the taxable income or loss of the Bermuda Constituent Entity with respect to goodwill.

(5) To the extent that—

(a) the Bermuda Constituent Entity earned taxable income (and did not incur a taxable loss) for the fiscal year, as determined in accordance with section 20 but prior to consideration of any adjustments resulting from the application of this section or section 29, and

(b) the adjustments resulting from the application of subsections (2) and (3), prior to consideration of the limitation described in paragraph (c), would reduce the amount described in paragraph (a) by more than 80%;

(c) then—

(i) the adjustments to taxable income for the fiscal year resulting from the application of subsections (2) and (3) shall be limited to 80% of the amount described in paragraph (a); and

(ii) the excess of—

(A) the adjustments to taxable income for the fiscal year resulting from the application of subsections (2) and (3), over

(B) the amount described in subparagraph (i),

shall be included in the determination of the net taxable loss of the Bermuda Constituent Entity for the immediately succeeding fiscal year, in accordance with section 6(2)(b)(i).

(6) To the extent that a Bermuda Constituent Entity would have been described in subsection (1) but for the fact that the MNE Group of which the Bermuda Constituent Entity was a member—

(a) did not meet the revenue threshold described in section 11(1); or

(b) did not include at least one entity or permanent establishment that was not located in the jurisdiction of the ultimate parent entity,

during the first fiscal year of the Bermuda Constituent Entity which begins on or after 1 January 2025 , then the adjustments described in subsections (2) and (3) shall be applied in any subsequent fiscal years for which the Bermuda Constituent Entity is a constituent entity of an In Scope MNE Group.

(7) To the extent that a Bermuda Constituent Entity would have been described in subsection (1) but for the application of section 13, the adjustments summarised in subsections (2) and (3) shall be applied in those fiscal years of the Bermuda Constituent Entity in which the provisions of section 13 no longer apply (whether due to the failure of the In Scope MNE Group to meet the requirements of section 13(1) or due to the expiration of the time period summarised in section 13(2)).

(8) The Filing Bermuda Constituent Entity may elect that the provisions of this section shall not apply.

(9) To the extent that—

(a) with respect to an asset, the value described in subsection (2)(a) exceeds the value described in subsection (2)(b);

(b) with respect to a liability, the absolute value described in subsection (2)(b) exceeds the absolute value described in subsection (2)(a); or

(c) with respect to an asset, the value described in subsection (3)(a)(ii) exceeds the value described in subsection (3)(a)(i),

the adjustments described in subsections (2) or (3) with respect to such asset or liability, as the case may be, shall be zero.

[Section 33 subsection (8) amended by 2025 : 12 s. 18 effective 29 July 2025; Section 33 subsection (9) inserted by 2025 : 29 s. 12 effective 11 December 2025]

Matching adjustments

34 (1) Where a Bermuda Constituent Entity has entered into a funds withheld or modified co-insurance contract as the assuming company where the funds withheld asset is accounted for at fair value in the determination of financial accounting net income or loss, the Filing Bermuda Constituent Entity may elect to adjust taxable income or loss to exclude unrealised gains or losses on the funds withheld asset, except to the extent the Bermuda Constituent Entity has elected to account for the overall contract, including the funds withheld asset and insurance liabilities, at fair value through financial accounting net income or loss; however, the exclusion under this subsection will be reduced to the extent that the assuming company's funds withheld asset is offset and changes in

unrealised gain or loss in the determination of financial accounting net income or loss are reduced as a result of accounting for a retrocession of the reinsured risk.

(2) Where a Bermuda Constituent Entity has entered into a funds withheld or modified co-insurance contract as the ceding company where the funds withheld liability is accounted for at fair value in the determination of financial accounting net income or loss, the Filing Bermuda Constituent Entity may elect to adjust taxable income or loss to exclude unrealised gains or losses on the funds withheld liability to the extent that the unrealised gains or losses on the corresponding funds withheld assets are not accounted for through financial accounting net income or loss.

(3) Elections made under this section are annual elections.

(4) Subject to section 26, the election under subsection (1) may be made for any or all reinsurance agreements either prospectively from the beginning of any fiscal year commencing on or after 1 January 2025, or with retrospective effect if made for the first fiscal year which begins on or after 1 January 2025 in which the Bermuda Constituent Entity is a member of an In Scope MNE Group which meets the requirements of section 11(1), subject to section 13, provided—

(a) if the Filing Bermuda Constituent Entity does not make an election pursuant to section 33(8), the election under this section cannot apply to any period prior to 1 October 2023 and the tax base cost of the funds withheld asset or liability will be adjusted in accordance with section 33(2); or

(b) where the election is made prospectively, for the purposes of calculating the unrealised gain or loss the tax base cost will be the fair value of the funds withheld asset or liability as at the date from which the election applies.

(5) Where an election is revoked for a fiscal year subsequent to the fiscal year beginning on or after the commencement date, taxable income or loss must be adjusted to include the cumulative fair value gain or loss that has previously been excluded from taxable income or loss, including any tax loss carryforward, as a result of an election under this section.

(6) The Minister may prescribe additional accounting mismatches which may be adjusted through a matching election.

[Section 34 subsection 4 amended by BR 130 / 2024 reg. 4 effective 1 January 2025; Section 34 amended by 2025 : 12 s. 19 effective 29 July 2025]

Realisation principle election

35 (1) With respect to assets and liabilities of a Bermuda Constituent Entity that are subject to fair value or impairment accounting in the consolidated financial statements, the Filing Bermuda Constituent Entity may elect to determine gains and losses using the realisation principle for purposes of computing taxable income or loss.

(2) The Filing Bermuda Constituent Entity may specify which assets and liabilities of the Bermuda Constitutent Entity such election shall apply to, provided that

the election shall not apply to an asset or liability to the extent that an adjustment has been made pursuant to section 34 with respect to such asset or liability.

(3) Under an election made pursuant to this section—

(a) all gains or losses attributable to fair value or impairment accounting with respect to an asset or liability shall be excluded from the computation of taxable income or loss;

(b) the carrying value of an asset or liability for purposes of determining gain or loss shall be its carrying value adjusted in accordance with section 33(2) at the later of—

(i) the date when the asset was acquired or liability is incurred; or

(ii) the beginning of the year for which the election was made;

(c) if the election is revoked, the taxable income or loss of the Bermuda Constituent Entity is adjusted by the difference at the beginning of the revocation year between the fair value of the asset or liability and the carrying value of the asset or liability, adjusted in accordance with section 33(2) if applicable.

(4) An election pursuant to this section is an annual election.

[Section 35 amended by 2025 : 12 s. 20 effective 29 July 2025]

International shipping income exclusion

36 (1) Each Bermuda Constituent Entity's international shipping income and qualified ancillary international shipping income shall be excluded from the computation of its taxable income or loss; and where the computation of a Bermuda Constituent Entity's international shipping income and qualified ancillary international shipping income results in a loss, the loss shall be excluded from the computation of its taxable income or loss.

(2) In this section, international shipping income means the net income obtained by a Bermuda Constituent Entity from—

(a) the transportation of passengers or cargo by ships that it operates in international traffic, whether the ship is owned, leased or otherwise at the disposal of the Bermuda Constituent Entity;

(b) the transportation of passengers or cargo by ships operated in international traffic under slot-chartering arrangements;

(c) leasing a ship, to be used for the transportation of passengers or cargo in international traffic, on charter fully equipped, crewed and supplied;

(d) leasing a ship on a bare boat charter basis, for the use of transportation of passengers or cargo in international traffic, to another constituent entity;

(e) the participation in a pool, a joint business or an international operating agency for the transportation of passengers or cargo by ships in international traffic; and

(f) the sale of a ship used for the transportation of passengers or cargo in international traffic provided that the ship has been held for use by the Bermuda Constituent Entity for a minimum of one year.

(3) International shipping income shall not include net income obtained from the transportation of passengers or cargo by ships via inland waterways within the same jurisdiction.

(4) Qualified ancillary international shipping income means net income obtained by a Bermuda Constituent Entity from the following activities that are performed primarily in connection with the transportation of passengers or cargo by ships in international traffic—

(a) leasing a ship on a bare boat charter basis to another shipping enterprise that is not a constituent entity, provided that the charter does not exceed three years;

(b) sale of tickets issued by other shipping enterprises for the domestic leg of an international voyage;

(c) leasing and short-term storage of containers or detention charges for the late return of containers;

(d) provision of services to other shipping enterprises by engineers, maintenance staff, cargo handlers, catering staff, and customer services personnel; and

(e) investment income where the investment that generates the income is made as an integral part of the carrying on the business of operating the ships in international traffic.

(5) To the extent that the aggregated qualified ancillary international shipping income of all Bermuda Constituent Entities in a Bermuda Constituent Entity Group exceeds 50% of that Bermuda Constituent Entity Group's international shipping income, such excess shall be disregarded and not subject to exclusion pursuant to this section.

(6) The costs incurred by a Bermuda Constituent Entity that are directly attributable to its international shipping activities listed in subsection (3) and the costs directly attributable to its qualified ancillary activities listed in subsection (4)—

(a) shall be deducted from the Bermuda Constituent Entity's revenues from such activities to compute its international shipping income and qualified ancillary international shipping income;

(b) other costs incurred by a Bermuda Constituent Entity that are indirectly attributable to a Bermuda Constituent Entity's international shipping activities and qualified ancillary activities shall be allocated on the basis of the Bermuda Constituent Entity's revenues from such activities in proportion to its total revenues; and

(c) all direct and indirect costs attributed to a Bermuda Constituent Entity's international shipping income and qualified ancillary international shipping income shall be excluded from the computation of its taxable income or loss.

(7) In order for a Bermuda Constituent Entity's international shipping income and qualified ancillary international shipping income to qualify for the exclusion from its net taxable income or loss under this section, the Bermuda Constituent Entity must demonstrate that the strategic or commercial management of all ships concerned is effectively carried on from or within Bermuda.

Transfer pricing requirements

37 (1) Any transaction between a Bermuda Constituent Entity and another constituent entity located in a different jurisdiction that is a member of the same In Scope MNE Group that is not consistent with the arm's length principle must be adjusted so as to be consistent with the arm's length principle.

(2) Any transaction between a Bermuda Constituent Entity and another constituent entity that is a member of the same In Scope MNE Group, that is not recorded in the same amount in the financial accounts of the Bermuda Constituent Entity and the other constituent entity must be adjusted so as to be in the same amount.

(3) A gain or loss from a sale or other transfer of an asset between two Bermuda Constituent Entities of the In Scope MNE Group that is not recorded consistent with the arm's length principle shall be recomputed based on the arm's length principle if that loss is included in the computation of taxable income or loss.

(4) At the election of the Filing Bermuda Constituent Entity, consolidated accounting treatment may be applied to transactions between Bermuda Constituent Entities of the same In Scope MNE Group and if this election is made, income, expenses, gains, and losses resulting from transactions between Bermuda Constituent Entities may be eliminated from the computation of taxable income or loss in the same manner as amounts relating to transactions among members of a consolidated group are eliminated as part of the consolidation adjustments used under the acceptable financial accounting standard used by the ultimate parent entity in preparing its consolidated financial statements.

(5) The election in subsection (4) is an annual election and is limited to transactions between Bermuda Constituent Entities (other than investment entities) that are members of the same Bermuda Constituent Entity Group.

[Section 37 subsection (4) amended by 2025 : 12 s. 21 effective 29 July 2025]

PART 7

ALLOCATION OF TAXABLE INCOME OR LOSS

Allocation for flow-through entities that are ultimate parent entities

38 (1) To the extent a Bermuda Constituent Entity is regarded as fiscally transparent pursuant to section 15, prior to consideration of subsection 15(2), and is the ultimate parent entity of an In Scope MNE Group—

(a) the taxable income or loss of the Bermuda Constituent Entity shall be allocated between the Bermuda Constituent Entity and its owners in accordance with subsections (2) through (4), as applicable;

(b) the Bermuda Constituent Entity shall be regarded as fiscally transparent for a fiscal year to the extent taxable income or loss has been allocated to its owners in accordance with paragraph (a), such that the portion allocated to its owners shall be excluded from the determination of taxable income or loss of the Bermuda Constituent Entity for purposes of section 20(c); and

(c) the Bermuda Constituent Entity shall not be regarded as fiscally transparent for a fiscal year to the extent its taxable income or loss exceeds the amount of taxable income or loss allocated to its owners in accordance with paragraph (a), and such excess shall be included in the determination of taxable income or loss of the Bermuda Constituent Entity for the purposes of section 20(c).

(2) The taxable income, if any, for the fiscal year of a Bermuda Constituent Entity described in subsection (1)(a) shall be allocated to an owner of the Bermuda Constituent Entity in accordance with its ownership interest if—

(a) the holder of the ownership interest is subject to tax on such income for a taxable period that ends within 12 months of the end of the Bermuda Constituent Entity's fiscal year and—

(i) the holder of the ownership interest is subject to tax on the full amount of such income at a nominal rate that equals or exceeds 15%; or

(ii) it can reasonably be expected that the aggregate amount of—

(A) taxes imposed pursuant to this Act on the Bermuda Constituent Entity together with any creditable foreign tax; and

(B) taxes of the holder of the ownership interest on such income,

equals or exceeds 15% of the full amount of such income; or

(b) the holder is a governmental entity, an international organisation, a non-profit organisation or a pension fund, (but is not an investment entity) that—

(i) is created and managed in Bermuda; and

(ii) directly holds ownership interests that, in the aggregate, represent a right to 5% or less of the profits and assets of the Bermuda Constituent Entity.

(3) For the purposes of subsection (2)(a)—

(a) a holder is subject to tax on its share of the Bermuda Constituent Entity's taxable income if that income is capable of being included in the holder's taxable income under the laws of the jurisdiction in which the holder is tax resident or capable of being included in taxable income of a permanent establishment of the holder; and

(b) the nominal rate is the statutory rate applicable to the holder on its share of the Bermuda Constituent Entity's income; if the holder is subject to graduated rates, the nominal rate is the highest rate applicable to the holder determined as if its share of the Bermuda Constituent Entity's taxable income were its total taxable income.

(4) The taxable loss, if any, described in subsection (1)(a) shall be allocated to an owner of the Bermuda Constituent Entity in accordance with its ownership interest, except to the extent that the holder of the ownership interests is not allowed to use the loss in computing their separate taxable income.

(5) Subsections (2) through (4) shall apply to a permanent establishment through which a Bermuda Constituent Entity described in subsection (1) wholly or partly carries out its business; or through which the business of a tax transparent entity is wholly or partly carried out if the ownership interest of a Bermuda Constituent Entity described in subsection (1) in that tax transparent entity is held directly or through a tax transparent structure.

Investment entities

39 (1) Where a Bermuda Constituent Entity—

(a) is an investment entity or insurance investment entity;

(b) is not a tax transparent entity; and

(c) is not subject to an election pursuant to section 41,

the taxable income or loss of the Bermuda Constituent Entity for the fiscal year shall be reduced in accordance with subsection (2).

(2) The taxable income or loss, if any, for the fiscal year of a Bermuda Constituent Entity described in subsection (1) shall be reduced by the amount of taxable income or loss that would have been treated as attributable to the ownership interests in the Bermuda Constituent Entity held by owners (other than the constituent entity members of an In Scope MNE Group) in the consolidated financial statements of the ultimate parent entity of the MNE Group as if the Bermuda Constituent Entity's net income or loss were equal to its taxable income or loss.

Investment entity and insurance investment entity mark-to-market election

40 (1) A Filing Bermuda Constituent Entity may elect to include in the taxable income of a Bermuda Constituent Entity for a fiscal year the change in the fair value during the fiscal year of the Bermuda Constituent Entity's ownership interests in a constituent entity that is an investment entity or an insurance investment entity.

(2) To the extent the ownership interests of a Bermuda Constituent Entity which is an investment entity or an insurance investment entity are subject to an election under subsection (1), the taxable income or loss, if any, for the fiscal year of that Bermuda Constituent Entity shall be reduced by the amount of taxable income or loss that would have been treated as attributable to the ownership interests subject to the election in subsection (1).

(3) For the purposes of this section, a constituent entity that indirectly owns an ownership interest in an investment entity or insurance investment entity through a direct ownership interest in another investment entity or insurance investment entity is considered to be subject to tax under a mark-to-market or similar regime with respect to the indirect ownership interest in the first-mentioned entity if it is subject to a mark-to-market or similar regime with respect to the direct ownership interest in the second-mentioned entity.

(4) The election under this section is a five-year election; if the election is revoked, gain or loss from the disposition of an ownership interest the investment entity or insurance investment entity shall be determined based on the fair value of the ownership interest on the first day of the revocation year.

[Section 40 subsection (1) repealed and substituted by 2025 : 12 s. 22 effective 29 July 2025]

Taxable distribution method

41 (1) With respect to a Bermuda Constituent Entity that is a constituent entity-owner of an investment entity or an insurance investment entity and that is not itself an investment entity or insurance investment entity, the Filing Bermuda Constituent Entity may elect to apply the provisions of subsection (2) with respect to the Bermuda Constituent Entity's ownership interest in a constituent entity that is an investment entity or an insurance investment entity.

(2) To the extent that an election is made pursuant to subsection (1)—

(a) distributions from the investment entity or the insurance investment entity are included in the net taxable income of the Bermuda Constituent Entity described in subsection (1) that received the distribution; and

(b) the local creditable tax gross-up is included in the net taxable income and adjusted creditable foreign taxes of the Bermuda Constituent Entity described in subsection (1) that received the distribution.

(3) For the purposes of this section, the local creditable tax gross-up is the amount of any taxes incurred by the investment entity or insurance investment entity which would be considered adjusted creditable foreign taxes if incurred directly by the

Bermuda Constituent Entity related to the investment entity's or insurance investment entity's taxable income distributed to the Bermuda Constituent Entity.

(a) [repealed by BR 130 / 2024 reg. 5(d)]

(4) To the extent that—

(a) a Bermuda Constituent Entity is an investment entity or an insurance investment entity; and

(b) an election has been made pursuant to Article 7.6 of the GloBE Rules with respect to an ownership interest in a Bermuda Constituent Entity for the fiscal year,

the financial accounting net income or loss of the Bermuda Constituent Entity shall be excluded from the determination of the amount described in section 21 with respect to the Bermuda Constituent Entity for such fiscal year.

(5) An election under this section is an annual election.

[Section 41 amended by BR 130 / 2024 reg. 5 effective 1 January 2024; Section 41 amended by 2025 : 12 s. 23 effective 29 July 2025]

PART 8

CORPORATE RESTRUCTURING

Transfer of assets and liabilities

42 Subject to sections 43 and 44, in the case of a disposition or acquisition of assets and liabilities, a disposing Bermuda Constituent Entity will include in its taxable income or loss the gain or loss on disposition included in its financial accounting net income or loss, appropriately adjusted for the taxable adjustments made pursuant to Part 6, and an acquiring Bermuda Constituent Entity will determine its taxable income or loss using the carrying value of the acquired assets and liabilities used in its computation of financial accounting net income or loss pursuant to section 21.

Qualifying reorganisation

43 If the disposition or acquisition of assets and liabilities is part of a qualifying reorganisation, section 42 shall not apply and the disposing Bermuda Constituent Entity will exclude any gain or loss on the disposition from the computation of its taxable income or loss and an acquiring Bermuda Constituent Entity will determine its taxable income or loss after the acquisition using the disposing entity's carrying values of the acquired assets and liabilities upon disposition.

Non-qualifying gain or loss

44 If a disposition or acquisition of assets and liabilities is part of a qualifying reorganisation in which a disposing Bermuda Constituent Entity recognises non-qualifying gain or loss, the above sections 42 and 43 will not apply and—

(a) the disposing Bermuda Constituent Entity will include gain or loss on the disposition in its taxable income or loss computation to the extent of the non-qualifying gain or loss; and

(b) an acquiring Bermuda Constituent Entity will determine its taxable income or loss after the acquisition using the disposing entity's carrying value of the acquired assets and liabilities upon disposition adjusted to account for the non-qualifying gain or loss.

Elective recognition of gain or loss and use of fair value of assets and liabilities

45 (1) At the election of the Filing Bermuda Constituent Entity, a Bermuda Constituent Entity that acquires assets and liabilities in a transaction subject to sections 43 or 44 shall—

(a) include in the computation of its taxable income or loss an amount of gain or loss in respect of each of its assets and liabilities that is equal to the difference between the carrying value of the asset or liability immediately before and the fair value of the asset or liability immediately after the acquisition, decreased (or increased) by the non-qualifying gain or loss, if any, arising in connection with the acquisition;

(b) use the fair value for financial accounting purposes of the asset or liability immediately after the acquisition to determine taxable income or loss in fiscal years ending after the acquisition; and

(c) include the net total of the amounts determined in paragraph (a) in the relevant Bermuda Constituent Entity's taxable income or loss in one of the following ways—

(i) the net total of the amounts is included in the fiscal year in which the acquisition occurs; or

(ii) an amount equal to the net total of the amounts divided by five is included in the fiscal year in which the acquisition occurs and in each of the immediate four subsequent fiscal years, unless the Bermuda Constituent Entity leaves the In Scope MNE Group in a fiscal year within this period, in which case the remaining amount will be wholly included in that fiscal year.

[Section 45 subsection (1) amended by 2025 : 12 s. 24 effective 29 July 2025]

Bermuda Constituent Entities joining and leaving an MNE Group

46 (1) The following provisions apply where a Bermuda Constituent Entity (the "target") becomes, or ceases to be, a constituent entity of a MNE Group as a result of a transfer of any direct or indirect ownership interest in such target entity during the fiscal year (the "acquisition year")—

(a) where the target joins or leaves a group or the target becomes the ultimate parent entity of a new group, the target will be treated as a member of the group if any portion of its assets, liabilities, income,

expenses, or cash flows are included on a line-by-line basis in the consolidated financial statements of the ultimate parent entity in the acquisition year;

(b) in the acquisition year, a MNE Group shall take into account only the financial accounting net income or loss and adjusted creditable foreign taxes of the target that are taken into account in the consolidated financial statements of the ultimate parent entity; and

(c) in the acquisition year and each succeeding year, the target shall determine its taxable income or loss and adjusted creditable foreign taxes using its historical carrying value of the assets and liabilities.

(2) At the election of the Filing Bermuda Constituent Entity that is a member of an In Scope MNE Group that transfers a direct or indirect controlling interest in a Bermuda Constituent Entity, the Bermuda Constituent Entity may treat the transfer of the controlling interest as a transfer of its assets and liabilities such that the Bermuda Constituent Entity shall—

(a) determine its taxable income or loss in the year of transfer of the controlling interest including a deemed gain or loss on the disposition of its assets and liabilities equal to the difference between the consideration received for the controlling interest and the carrying value of the assets and liabilities immediately before the transfer of the controlling interest (such deemed gain or loss to be allocated to the portion of the acquisition year when the controlling interest in the Bermuda Constituent Entity was held by the In Scope MNE Group that transferred the controlling interest); and

(b) use the carrying value of the assets and liabilities and adjusted creditable foreign taxes used in the computation of financial accounting net income or loss pursuant to section 21 in the computation of taxable income or loss for all periods post the transfer of the controlling interest.

[Section 46 subsection (2)(a) amended by BR 130 / 2024 reg. 6 effective 1 January 2025; Section 46 subsection (2) amended by 2025 : 12 s. 25 effective 29 July 2025]

PART 8A

CIVIL PENALTIES

Interest to be chargeable

46A (1) Interest shall be chargeable in respect of tax and tax due at the rates and in the manner prescribed in regulations made pursuant to section 52 of this Act.

(2) Notwithstanding subsection (1), the Agency shall, subject to the existence of such circumstances as it may prescribe, have the power to waive all or part of any

interest chargeable as may be prescribed in regulations made pursuant to section 52 of this Act.

[Section 46A inserted by 2025 : 2 s. 2 effective 21 April 2025; Section 46A amended by 2025 : 29 s. 13 effective 11 December 2025]

Power to impose civil penalties

46B (1) In this Part—

"adjusted tax payments" means, in respect of a fiscal year, the sum of—

(a) tax payments of the Bermuda Constituent Entity Group (and payments from other Bermuda Constituent Entity Groups which have been applied to the Bermuda Constituent Entity Group) for the fiscal year; and

(b) the total distributable tax credit benefits of the Bermuda Constituent Entity Group for the fiscal year;

"Qualifying Bermuda Group BCE" has the meaning given to that term in section 2 of the Tax Credits Act 2025;

"tax" means corporate income tax chargeable pursuant to section 4 and converted into U.S. dollars pursuant to section 47;

"tax due" means in respect of a fiscal year, an amount equal to the excess, if any, of—

(a) the sum of—

(i) tax for the fiscal year; and

(ii) interest in respect of underpayments (or non-payments) of instalments determined as may be prescribed by regulations for the fiscal year; over

(b) adjusted tax payments of the Bermuda Constituent Entity Group for the fiscal year;

"tax payments" means, in respect of a fiscal year, the sum of—

(a) instalment payments made on behalf of the Bermuda Constituent Entity Group for the fiscal year;

(b) overpayments from other Bermuda Constituent Entity Groups and other fiscal years which have been applied to the Bermuda Constituent Entity Group for the fiscal year; and

(c) any other payments made on behalf of the Bermuda Constituent Entity Group on account of—

(i) tax for the fiscal year; and

(ii) interest in respect of underpayments (or non-payments) of instalments determined pursuant to regulations under this Act for the fiscal year;

"total accrued tax credit benefits" means, in respect of a fiscal year, the aggregate of the amounts determined for the fiscal year in accordance with section 29(2) of the Tax Credits Act 2025 for each Qualifying Bermuda Group BCE which is a Bermuda Constituent Entity member of the Bermuda Constituent Entity Group for the fiscal year;

"total distributable tax credit benefits" means, in respect of a fiscal year, the aggregate of the amounts determined for the fiscal year in accordance with section 5(1)(a) of the Tax Credits Act 2025 for each Qualifying Bermuda Group BCE which is a Bermuda Constituent Entity member of the Bermuda Constituent Entity Group for the fiscal year;

(2) The Agency may, where it deems appropriate, impose the civil penalties prescribed by this Part.

(3) Civil penalties under this Part shall be imposed on Bermuda Constituent Entities, and where a penalty is imposed on a Bermuda Constituent Entity, each other Bermuda Constituent Entity that is a member of that same In Scope MNE Group shall be jointly and severally liable for the penalty.

(4) The Agency shall, upon having considered the conduct of the In Scope MNE Group as provided in subsection (5), decide—

(a) whether a failure requiring the imposition of a civil penalty under this Part has occurred; and

(b) the amount of the penalty to be imposed (in circumstances where a maximum penalty is specified).

(5) The Agency shall, for purposes of subsection (4) and in addition to such further criteria prescribed in this Part, consider the conduct of the In Scope MNE Group, including—

(a) whether or not any relevant guidance was followed;

(b) the amount of tax (if any) not paid when due as a result of the conduct which is the subject of the penalty; and

(c) whether or not responses were received in respect of any enquiries by the Agency together with the content and timeliness of such responses.

(6) A civil penalty imposed shall not relieve any person from their obligation to pay tax (including any interest thereon).

(7) Multiple penalties may be imposed where the circumstances give rise to multiple failures.

(8) Where a penalty is specified for each month that a failure continues, such penalty—

(a) shall be imposed for at least one month as the minimum penalty; and

(b) may be imposed for a failure that is committed during any part of a month,

regardless of the duration of the failure.

(9) Subject to subsections (10), (11) and (11A), the Agency may impose a penalty against a Bermuda Constituent Entity referred to in subsection (3) by way of written notice, which notice shall—

(a) provide that a penalty shall be due and payable as of the date of a decision notice; and

(b) notwithstanding subsection (3), not be required to be addressed to each member of the In Scope MNE Group to be valid.

(10) The Agency must, prior to imposing a penalty under subsection (9), issue a warning notice to the Bermuda Constituent Entity against whom such penalty is proposed, and such warning notice shall—

(a) indicate the offence for which a penalty is proposed and the reasons the Agency has determined to impose such penalty;

(b) indicate the proposed amount of the penalty;

(c) state that if a penalty is imposed each other Bermuda Constituent Entity that is a member of the same In Scope MNE Group shall be jointly and severally liable for the penalty; and

(d) state that the affected Bermuda Constituent Entity has 28 days from the date of the warning notice to respond in writing to the warning notice.

(11) Following the expiry of the 28 day response period provided for in subsection (10), the Agency shall issue a decision notice in respect of any warning notice, and a decision notice shall confirm whether or not a penalty has been imposed and, if it has been imposed, the amount of such penalty.

(11A) Notwithstanding subsection (11), where a decision notice has been issued imposing a penalty and a particular penalty amount is stated as of the date of the decision notice, the penalty amount in the decision notice shall be adjusted without further action or notice by the Agency—

(a) where the penalty is imposed pursuant to section 46D or 46F, by increasing at the same monthly rate specified in the decision notice or if no rate is specified at the same monthly rate pursuant to the application of section 46D or 46F, as applicable, for so long as the default which gave rise to the decision notice remains uncured; and

(b) where the penalty is calculated by reference to the amount of tax or the amount of tax due, then the penalty shall be automatically recalculated if there is an adjustment of tax or tax due following an amendment, correction, or assessment of the relevant return pursuant to regulations made under this Act.

(12) A civil penalty imposed pursuant to this Part may be recovered by the Agency as a debt.

[Section 46B inserted by 2025 : 2 s. 2 effective 21 April 2025; Section 46B subsection (1) repealed and substituted by 2025 : 29 s. 14 effective 11 December 2025; Section 46B amended by 2026 : 25 s. 12 effective 29 July 2026]

Failure to register

46C (1) A Bermuda Constituent Entity shall be liable to a civil penalty under this Part where, without reasonable excuse, it has failed to register for tax as required by this Act, the CIT Agency Act or any regulations made thereunder.

(2) A Bermuda Constituent Entity that fails to comply as provided in subsection (1) shall be liable to a civil penalty not exceeding $10,000.

[Section 46C inserted by 2025 : 2 s. 2 effective 21 April 2025]

Failure to file return

46D (1) A Filing Bermuda Constituent Entity shall be liable to a civil penalty where, without reasonable excuse, it fails to file any return or any information or documentation required to be filed under any regulations made under this Act for a fiscal year by the deadline prescribed by this Act, the CIT Agency Act or any regulations made thereunder.

(2) The civil penalty that may be imposed under this section with respect to the failure to file a return by the due date shall be—

(a) with respect to each of the first five months following the due date in which the failure continues, the greater of—

(i) $3,000 per month for each month; or

(ii) an amount per month equal to 5% of the tax due as of the due date; and

(b) with respect to each month following the period specified in paragraph (a) in which the failure continues, $3,000 per month.

(3) The civil penalty that may be imposed under this section where the failure relates to the filing of any information or documentation required to be filed for a fiscal year under any regulations made under this Act (other than a return) shall be $3,000 for each month—

(a) beginning on the day following the deadline for filing the information or documentation; and

(b) ending with the earliest of—

(i) the date on which the information or documentation is filed with the Agency in accordance with the regulations;

(ii) the date on which the Bermuda Constituent Entity Group's return is filed for the fiscal year; or

(iii) the original due date for the Bermuda Constituent Entity Group's return for the fiscal year.

[Section 46D inserted by 2025 : 2 s. 2 effective 21 April 2025; Section 46D amended by 2025 : 29 s. 15 effective 11 December 2025; Section 46D subsections (2) and (3) repealed and substituted by 2026 : 25 s. 13 effective 29 July 2026]

Failure to accurately state tax on a return

46E (1) To the extent an understatement of tax is included on any return filed with respect to a Bermuda Constituent Entity Group and is attributable to—

(a) negligence;

(b) careless, reckless or intentional disregard of the provisions of this Act (or any related regulations); or

(c) a substantial understatement,

then the Agency shall impose a civil penalty of up to 20% of the amount of such understatement on the Filing Bermuda Constituent Entity of the Bermuda Constituent Entity Group.

(2) The amount of any understatement shall be deemed reduced by that portion of the understatement which is attributable to—

(a) the tax treatment of any item by the Bermuda Constituent Entity Group if there is or was substantial authority for such treatment; or

(b) any item if the relevant facts affecting the item's tax treatment are adequately disclosed in the return (or any qualified amended return) of the Bermuda Constituent Entity Group for the fiscal year, provided that—

(i) disclosure with respect to a recurring item must be made for each fiscal year in which the item is taken into account; and

(ii) an item shall only be adequately disclosed if it is disclosed in the manner prescribed by the Agency and disclosed with sufficient detail and clarity so as to enable the Agency to make a reasonably informed and accurate assessment of the nature, scope and effect of the item disclosed.

(3) The Agency shall not impose a civil penalty under this section on all or portion of an understatement if there was reasonable cause for it and the Filing Bermuda Constituent Entity acted in good faith with respect to such understatement.

(4) In assessing whether or not a Filing Bermuda Constituent Entity had reasonable cause and acted in good faith for the purposes of this section, the Agency shall, notwithstanding section 46B, take into account, if disclosed to the Agency, any advice the Filing Bermuda Constituent Entity received from professional tax advisors qualified to advise upon this Act and any related laws or guidance pertaining to Bermuda's corporate income tax regime.

(5) In this section—

"qualified amended return" means an amended return filed prior to the Agency raising any enquiry with respect to the original tax return, but shall not include any return which is subject to unilateral amendment by the Agency pursuant to regulations the Minister may prescribe under this Act or the CIT Agency Act;

"substantial authority" means authority from one or more of the following sources—

(a) this Act, the CIT Agency Act or any regulations made thereunder;

(b) decisions of the Court;

(c) determinations by the Agency;

(d) official guidance or "frequently asked questions" issued in relation to any of the foregoing,

where the authority is sufficient to give rise to more than a reasonable basis for the treatment, but does not necessarily establish that the treatment is correct on the balance of probabilities;

"substantial understatement" means an understatement which exceeds the lesser of—

(a) 20% of the tax which should have been reported had the understatement not occurred; or

(b) $10,000,000;

"understatement of tax" means the circumstances where the amount of tax shown on any return for the fiscal year, together with any qualified amended return for the same fiscal year, is less than the amount of tax that the Bermuda Constituent Entity Group ought to have reported on such return.

[Section 46E inserted by 2025 : 2 s. 2 effective 21 April 2025; Section 46E subsection (4) amended by 2025 : 29 s. 16 effective 11 December 2025]

Failure to pay tax when due

46F (1) A Filing Bermuda Constituent Entity shall be liable to a civil penalty where, without reasonable excuse, it fails to pay the tax due for the fiscal year by the due date prescribed under this Act, the CIT Agency Act, or any regulations made thereunder.

(2) The amount of civil penalty imposed under this section shall be equal to 0.5% of the amount of tax due as of the date of the failure, provided that, where one or more partial payments of tax due is made subsequent to the original failure, then the penalty for each month that the failure continues after each partial payment shall be recalculated (as at the start of the month following the partial payment) to take account of the reduction in tax due caused by applying any partial payment against the original tax due.

[Section 46F inserted by 2025 : 2 s. 2 effective 21 April 2025; Section 46F subsection (2) amended by 2026 : 25 s. 14 effective 29 July 2026]

PART 8B

CRIMINAL PENALTIES

Offences by body corporate and other entities

46G (1) Where an offence under this Part is committed by a body corporate and is proved to have been committed with the consent or connivance of any director, manager, or other similar officer of the body corporate (or any person who is purporting to act in any such capacity), such person, as well as the body corporate, shall be deemed to be guilty of an offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with its functions of management as if he were a director of the body corporate.

(3) Where a partnership is guilty of an offence under this Part, every partner, other than a partner who is proved to have been unaware or to have attempted to prevent the commission of the offence, is also guilty of the offence and is liable to be proceeded against and punished accordingly.

(4) Where any trust, unincorporated body or any other association (whether incorporated or not) is guilty of an offence under this Part—

(a) every officer of the body or association who is bound to fulfil any duty of which the breach is the offence; or

(b) if there is no such officer, every member of the governing body (which in the case of a trust, shall mean its trustee and, in the case of a corporate trustee, subsection (1) shall apply) other than a member who is proved to have been unaware of or to have attempted to prevent the commission of the offence,

is also guilty of the offence and is liable to be proceeded against and punished accordingly.

[Section 46G inserted by 2025 : 2 s. 2 effective 21 April 2025]

Deliberate failure to file return

46H (1) If a Filing Bermuda Constituent Entity has failed to file any return for a fiscal year by any deadline prescribed by this Act, the CIT Agency Act or any regulations made thereunder, and—

(a) such failure has continued beyond the date falling six months after the prescribed deadline; and

(b) such failure is intentional,

then the Filing Bermuda Constituent Entity commits an offence and each other Bermuda Constituent Entity that is a member of the same In Scope MNE Group shall be jointly and severally liable for such offence.

(2) A person guilty of an offence under this section shall be liable on conviction on indictment to a fine not exceeding $5,000,000 or to imprisonment for a period not exceeding six months or both.

[Section 46H inserted by 2025 : 2 s. 2 effective 21 April 2025]

Tax Evasion

46I (1) Where any Bermuda Constituent Entity—

(a) by intentional act or default evades or attempts to evade any payment of tax;

(b) makes any false or misleading statement in writing to the Agency (whether on or as part of a return or otherwise) with the intent to evade any payment of tax (whether or not such evasion is successful); or

(c) by any fraud evades or attempts to evade any payment of tax,

then the Bermuda Constituent Entity commits an offence, and each other Bermuda Constituent Entity that is a member of the same In Scope MNE Group shall be jointly and severally liable for such offence.

(2) A person guilty of an offence under this section shall be liable on conviction on indictment to a fine of an amount up to 100% of the tax evaded (or which the person attempted to evade) or to imprisonment for a period not exceeding five years or both.

[Section 46I inserted by 2025 : 2 s. 2 effective 21 April 2025]

Application of civil and criminal penalties

46J (1) When a person is liable to a civil penalty imposed by or under Part 8A of this Act, such person shall not also be charged with an offence under Part 8B of this Act in relation to the same matters.

(2) When a person is convicted of an offence under Part 8B of this Act, such person shall not also be liable to a civil penalty imposed by or under Part 8A of this Act in relation to the same matters.

[Section 46J inserted by 2025 : 2 s. 2 effective 21 April 2025]

PART 9

MISCELLANEOUS

Conversion of Foreign Currency

47 For the purposes of converting any amount denominated in a currency other than Bermuda or United States Dollars for the purposes of this Act (including any filing hereunder), the Minister may prescribe by regulations—

(a) the method; and

(b) the official foreign exchange rate,

for converting such amounts into U.S. dollars.

[Section 47 amended by 2025 : 12 s. 26 effective 29 July 2025; Section 47 repealed and substituted by 2025 : 29 s. 17 effective 11 December 2025]

Appeal to Supreme Court

48 (1) A person who is aggrieved by any decision made by any government department or statutory body responsible for administering this Act (including the Agency) may appeal to the Supreme Court against the decision.

(2) On any appeal under this section, the Court may make such order, including an order for costs, as it thinks just.

(3) Section 62 of the Supreme Court Act 1905 shall be deemed to extend to the making of rules under that section to regulate the practice and procedure on an appeal under this section.

[Section 48 subsection (1) amended by 2025 : 2 s. 2 effective 21 April 2025]

Elections prior to commencement date

49 (1) Subject to subsection (1A) and subsection (4), any election under this Act may be made (and if made shall be deemed made) in respect of the period which—

(a) begins on the later of—

(i) 1 October 2023; or

(ii) the first day of the fifth preceding fiscal year to the first fiscal year in which the In Scope MNE Group meets the requirements of section 11(1), subject to section 13; and

(b) ends on the later of—

(i) 31 December 2024; or

(ii) the first day of the first fiscal year in which the In Scope MNE Group meets the requirements of section 11(1), subject to section 13,

notwithstanding that this Act (or any part thereof) may not be in force at the time such election is made, and any such election shall be valid and have effect as if this Act were in force during the period described in this subsection.

(1A) Notwithstanding any other provision of this section, an election under section 35 may be made (and if made shall be deemed made) in respect of the fiscal year immediately preceding the first fiscal year for which an In Scope MNE Group of which the Bermuda Constituent Entity is a member meets the requirements of section 11(1), subject to section 13, (and subject to sections 11(1) and 13 being in force in accordance with section 53(b)) notwithstanding that this Act (or any part thereof) may not be in force at the time such election is made, and any such election shall be valid and have effect as if this Act were in force during the period described in this subsection.

(2) Subsection (1) shall be applied without regard to paragraph (a)(i) with respect to a Bermuda Constituent Entity for which an election in accordance with section 33(8) has been made.

(3) To the extent that an election under this Act is made in respect of the period described in subsection (1) or subsection (1A)—

(a) such election shall apply for the entire period described in subsection (1) or subsection (1A);

(b) the effect of such election, including for the purposes of (but not limited to)—

(i) the determination of taxable income or loss of a Bermuda Constituent Entity during the period described in subsection (1) or subsection (1A), including for the purposes of determining the opening tax loss carryforward pursuant to section 6(4); and

(ii) determining the carrying value of assets and liabilities for the purposes of this Act as of the date described in subsection (1)(b),

shall be determined as if the Bermuda Constituent Entity (or, to the extent that such election applies to a Bermuda Constituent Entity Group, such Bermuda Constituent Entity Group) had been subject to the income tax imposed by this Act during the period described in subsection (1) or subsection (1A).

(4) This section shall not apply to the elections described in sections 6(1)(b), 8(3), 34, 45 or 46.

(5) At the election of the Filing Bermuda Constituent Entity, the definition of asymmetric foreign currency gains or losses in subsection 2(1) may be replaced by the definition which applied prior to the amendments made to this Act in December 2024 for periods preceding the first fiscal year of a Bermuda Constituent Entity beginning on or after 1 January 2025.

(6) Where a Filing Bermuda Constituent Entity makes a five-year election with respect to a Bermuda Constituent Entity for the period specified in subsection (1), subject to subsection (2), the Filing Bermuda Constituent Entity may revoke the five-year election at the end of the period specified in subsection (1) and may subsequently make a new election during the four-year period succeeding the date determined in accordance with section 49(1)(b).

[Section 49 in force by 2023 : 35 s. 53 effective 1 January 2024; Section 49 amended by BR 130 / 2024 reg. 7 effective 1 January 2024; Section 49 subsection (2) repealed and substituted by 2025 : 12 s. 27 effective 29 July 2025; Section 49 subsection (6) inserted by 2026 : 25 s. 15 effective 29 July 2026]

Power to permit a revocation of an election

49A (1) The Agency may permit the revocation of a five-year election under this Act where during a period, an election cannot be revoked within the meaning provided pursuant to paragraph (b) of the defined term “five-year election” under section 2.

(2) Notwithstanding subsection (1), the Agency may permit the making of a new five-year election during the period specified within the meaning provided pursuant to paragraph (d) of the defined term "five-year election" under section 2.

[Section 49A inserted by 2026 : 25 s. 16 effective 29 July 2026]

Guidance

50 (1) The Minister may from time to time give guidance on the application of this Act and any regulations.

(2) Guidance issued under this section is not a statutory instrument and the Statutory Instruments Act 1977 shall not apply to it.

[Section 50 in force by 2023 : 35 s. 53 effective 1 January 2024]

Establishment of tax refund reserve fund

50A (1) There is hereby established a reserve fund to be called the "tax refund reserve fund", which shall, subject to this Act, the CIT Agency Act and regulations made under those Acts, be administered by the Agency and the Accountant-General (either independently or jointly) pursuant to authority delegated by the Minister under the Public Treasury (Administration and Payments) Act 1969.

(2) The Minister may, by regulations made under this section, provide for the treatment and allocation of tax receipts as between the tax refund reserve fund and the Consolidated Fund, including the role of the Agency in respect of providing assistance in relation to the same.

(3) Regulations made under this section shall be subject to the negative resolution procedure.

[Section 50A inserted by 2024 : 20 s. 25 effective 30 July 2024; Section 50A subsection (1) amended by 2025 : 12 s. 28 effective 29 July 2025]

PART 10

FINAL PROVISIONS

Consequential amendments

51 Section 2 of the Exempted Undertakings Tax Protection Act 1966 is amended by inserting the following subsection after subsection 2(1)—

"(1A) Any such assurance as is referred to in subsection (1) issued—

(a) prior to 1 January 2024, is subject to the application of the Corporate Income Tax 2023 and the imposition of any tax pursuant thereto; and

(b) after 1 January 2024 shall not apply to the imposition of any tax pursuant to the Corporate Income Tax 2023.".

Regulations: consequentials and transitionals

52 (1) Without prejudice to section 3, the Minister may make regulations for such transitional, incidental, supplementary or consequential provision as appears to the Minister to be necessary or expedient.

(2) The negative resolution procedure shall apply to regulations made under this section.

Commencement

53 This Act shall come into operation on the commencement date which shall be—

(a) 1 January 2024 in respect of sections 2, 3, 15, 49, 50 and 53; and

(b) 1 January 2025 in respect of all other sections.

[Section 53 in force by 2023 : 35 s. 53 effective 1 January 2024]

[Assent Date: 27 December 2023]

[Operative Date: 01 January 2024]

[Amended by:

2024 : 20
2023 : 35
BR 130 / 2024
2025 : 2
2025 : 12
2025 : 29
2026 : 25]