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Fifth Session Eleventh Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 5 of 2020

[L.S.]

AN ACT to make provision for the implementation of agreements between Trinidad and Tobago and other States providing for the exchange of information for the purposes of taxation, and for related purposes.

[Assented to 26th March, 2020]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title

1. This Act may be cited as the Tax Information Exchange Agreements Act, 2020.

Act inconsistent with Constitution

2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation

3. In this Act—

“competent authority”, in relation to a tax information exchange agreement means in the case of—

(a) Trinidad and Tobago, the Board as the Minister’s authorised representative; and

(b) another State, has the meaning ascribed in the tax information exchange agreement;

“contracting states”, in relation to tax information exchange agreement, means Trinidad and Tobago and the other State on behalf of which the tax information exchange agreement is entered into;

“declared agreement” means a tax information exchange agreement that has, under section 4, been declared by the President to be a declared agreement for the purposes of this Act;

“Minister” means the Minister to whom the responsibility for finance is assigned;

“tax information exchange agreement” has the meaning assigned to it by section 4;

“the Board” means the Board of Inland Revenue established by section 4 of the Income Tax Act.

Chap. 75:01

4. (1) For the purpose of this Act, a tax information exchange agreement is an agreement whereby the Government of Trinidad and Tobago and the Government of another State undertake that those States will, through their competent authorities, provide each other, upon request, with any financial and other information and supporting documentation accessible to the competent authority of the State to which the request is made that is required by the competent authority of the requesting State for the purposes of administering or enforcing a law relating to taxation of a kind specified in the agreement.

(2) An agreement is not precluded from being a tax information exchange agreement for the purposes of this Act by reason that it—

- (a) includes provision for matters necessary for, or incidental to, the matters referred to in subsection (1);
- (b) provides for a contracting State to obtain and transmit to the other contracting State any information that it considers may assist that other State to administer or enforce a law referred to in subsection (1); or

(c) provides for the implementation of programmes or measures to facilitate or improve the administration and enforcement of the laws referred to in subsection (1).

Declaration of agreement

5. (1) The President may, by Order, declare a tax information exchange agreement specified in the Order to be a declared agreement for the purposes of this Act.

(2) An Order under subsection (1) shall be laid in both Houses of Parliament.

Implementation of agreement

6. (1) The competent authority has the function of ensuring that effect is given to every declared agreement.

(2) The Minister may give general directions to the Board as to the performance by it of its functions under this Act, and the Board shall comply with any direction so given.

(3) For the purposes of subsection (2), such general directions do not include any directions relative to the personal information of any specific person, within the possession of the Board.

Powers of Board

7. (1) The Board has, for the purposes of giving effect to a declared agreement, all the powers that it would have if it were acting generally for—

(a) the purposes of; or

(b) any particular purpose specified in,

any written law that confers powers on the Board.

(2) Subject to subsection (1), the power under that subsection is exercisable notwithstanding that the circumstances necessary under that written law for the exercise of the power may not have arisen.

(3) For the purposes of subsections (1) and (2), the provisions of the written law shall apply to, and in relation to, the exercise of any such power for the purposes of giving effect to a declared agreement as if the power were exercised for the purposes of that written law.

(4) The Board may, in accordance with a declared agreement—

- (a) provide any information obtained by it under this Act or any other written law; and
- (b) request and receive any information required by it for the purposes of any written law.

8. Nothing in section 4 of the Income Tax Act, or any other law to a like effect, prevents the disclosure of information where that disclosure is in accordance with, and for the purpose of giving effect to, a declared agreement. Secrecy Chap. 75:01

9. (1) Notwithstanding sections 6, 38 and 40 of the Data Protection Act, the Board may, for the purposes of this Act, process information collected by it under this Act. Exemption from Chap. 22:04

(2) Notwithstanding sections 6, 30 and 31 of the Data Protection Act, the Board shall, for the purposes of this Act, receive information on an individual.

(3) Notwithstanding section 46 of the Data Protection Act, information received by the Board under this Act shall be disclosed under an agreement even if the individual to whom the information relates does not consent to the disclosing of his information or the jurisdiction does not have comparable safeguards as required by the Data Protection Act.

(4) Notwithstanding any other written law, where the Board receives information for the purposes of this Act, it shall not share that information with any person unless so permitted under this Act.

10. Where information has been obtained or received under this Act, a person who uses or discloses the information other than for the purposes for which it is obtained or received commits an offence and is liable— Penalty for unauthorized disclosure

- (a) on summary conviction, to a fine of one hundred thousand dollars and to imprisonment for a term of three years; and

(b) on conviction on indictment, to a fine of two hundred and fifty thousand dollars and to imprisonment for a term of five years.

11. (1) Where the Board provides information to a competent authority of another State under any declared agreement, the Board shall, within one year of such provision, notify the persons in respect of whom the information relates that personal information relating to that person which is required to be reported under this Act and under a declared agreement has been forwarded to the competent authority of that State.

(2) A Notification under subsection (1) shall be in the form prescribed by the Minister by Order.

Passed in the House of Representatives this 4th day of March, 2020.

J. SAMPSON-MEIGUEL

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of 34 members of the House.

J. SAMPSON-MEIGUEL

Clerk of the House

Passed in the Senate this 12th day of March, 2020.

B. CAESAR

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of 27 Senators.

B. CAESAR

Clerk of the Senate