

S.I. 79 of 2021

BUSINESS TAX ACT, 2020

(Cap.20)

Business Tax (Amendment of Eleventh Schedule) Regulations, 2021

In exercise of the powers conferred by section 81 of the Business Tax Act, the Minister responsible for Finance makes the following regulations —

Citation

1. These regulations may be cited as the Business Tax (Amendment of Eleventh Schedule) Regulations, 2021.

Amendment of Eleventh Schedule

2. The Eleventh Schedule to the Business Tax Act is hereby amended —

(a) by repealing paragraph 1 and substituting therefor the following paragraph —

“1. This Schedule applies to an enterprise, that is a member of a multinational group.”;

(b) by repealing paragraph 6 and substituting therefor the following paragraphs —

“6. In this Schedule —

“consolidated financial statements” means the financial statements of a group in which the assets, liabilities, income, expenses and cash flows of the ultimate parent entity and the entities related to the ultimate parent entity are presented as a single economic entity;

“group” means a collection of enterprises related through ownership or control, which is required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;

“multinational group” means any group that includes two or more enterprises, the tax residence of such enterprise or enterprises are in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction;

“pure equity holding company” means a company which, as its primary function, acquires and holds shares or equitable interests in companies and performs no substantial commercial or investment activity;

“real estate holding company” means a company which as its primary function acquires and holds interests in immovable property; and

“ultimate parent entity” means an entity of a multinational group that meets the following criteria —

- (i) it owns directly or indirectly a sufficient interest in one or more other group entities that it is required to prepare consolidated financial statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on public

securities exchange in its jurisdiction of tax residence; and

(ii) there is no other entity of such multinational group that owns directly or indirectly an interest described in (i) above in the first mentioned entity.

7. For avoidance of doubt, it is clarified that, for the purposes of “passive income” to which this Schedule applies, “passive income” shall include capital gains which arise from a core income generating activity of holding and managing the shares or equitable interests.”.

MADE this 14th day of September, 2021.

**NAADIR HASSAN
MINISTER OF FINANCE,
ECONOMIC PLANNING AND TRADE**
