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GRAND BAHAMA (PORT AREA) EXTENSION OF TAX EXEMPTIONS BILL, 2017

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GRAND BAHAMA (PORT AREA) EXTENSION OF TAX EXEMPTIONS BILL, 2017

A BILL FOR AN ACT TO REPEAL THE GRAND BAHAMA (PORT AREA) INVESTMENT INCENTIVES ACT AND TO PROVIDE FOR EXEMPTIONS FROM CERTAIN TAXES AND RATES

Enacted by the Parliament of The Bahamas

WHEREAS the Government and the Grand Bahama Port Authority Limited entered into three Agreements dated the 4th day of August, 1955, the 11th day of July, 1960 and the 1st day of March, 1966, respectively whereby for a period of thirty-five years from the 4th day of August, 1955 —

- (a) no real property taxes or rates and no real property levies (whether capital or periodic) of any kind were to be levied charged or collected by the Government within the Port Area or upon or against any land building or structure within the Port Area;
- (b) no personal property taxes or rates and no capital levies and no taxes on capital gains or capital appreciation were to be levied charged or collected by the Government within the Port Area or upon or against, inter alia, any personal property within the Port Area; and
- (c) no taxes of any kind were to be levied upon or against the earnings of the Port Authority in the Port Area;

AND WHEREAS by the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area)(Extension of Tax Exemption Period) Act, 1992 the aforementioned exemption period of thirty-five years that ended on the 4th day of August, 1990 was extended until the 4th day of August, 1993;

AND WHEREAS by an Agreement contained in the Schedule to the Freeport, Grand Bahama Act (*Ch. 30*) between the Government and the Grand Bahama Port Authority Limited and the Grand Bahama Development Company

Limited, the aforementioned exemptions were extended for a further period of twenty-two years from the 4th day of August, 1993 to the 4th day of August, 2015;

AND WHEREAS by the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area)(Extension of Tax Exemption Period) (Amendment) Act, 2015, the aforementioned exemptions were extended for a further six month period with effect from the 4th day of August, 2015;

AND WHEREAS by the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area)(Extension of Tax Exemption Period) (Amendment) Act, 2016, the aforementioned exemptions were extended for a further three month period with effect from the 4th day of February, 2016;

AND WHEREAS the Grand Bahama (Port Area) Investment Incentives Act, 2016 was deemed to have come into operation on the 4th day of May, 2016;

AND WHEREAS several Grand Bahama (Port Area) (Extension of Time for Applications) Orders have been made under the said Act:

NOW THEREFOR, the Government is desirous of stimulating the economic growth and development of Grand Bahama by extending the exemption of certain taxes in the Port Area.

1. Short title and commencement.

- (1) This Act may be cited as the Grand Bahama (Port Area) Extension of Tax Exemptions Act, 2017.
- (2) This Act shall come into operation on such day as the Minister may appoint, by notice published in the *Gazette*.

2. Interpretation.

In this Act —

“**Licensee**” has the meaning ascribed to it under the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) Act (*Ch. 261*);

“**Port Area**” has the meaning ascribed to it under the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) Act (*Ch. 261*);

“**Port Authority**” means the Grand Bahama Port Authority Limited, being a company incorporated under the statute law of The Bahamas and carrying on business within The Bahamas.

3. Exemption of certain taxes, etc. within the Port Area.

- (1) From the 4th May 2016, the following exemptions shall apply with respect to the the Port Authority, its Licensees and home owners in the Port Area for twenty years —
- (a) no real property taxes and no real property levies (whether capital or periodic) of any kind shall be levied charged or collected by the Government within the Port Area or upon or against any land building or structure within the Port Area;
 - (b) no personal property taxes and no capital levies and no taxes on capital gains or capital appreciation shall be levied charged or collected by the Government within the Port Area or upon or against any personal property within the Port Area or upon or against the shares, debentures or other securities of any company incorporated within or without The Bahamas and having its Registered Office and principal place of business within the Port Area, and for the purposes of this paragraph the term “principal place of business” shall mean that place where not less than eight per centum of the volume of a company’s business and trade within The Bahamas is transacted, except that the exemptions granted by this paragraph shall extend only to personal property, shares, debentures or securities of the Port Authority or any Licensee;
 - (c) no taxes of any kind shall be levied upon or against the earnings of the Port Authority in the Port Area and outside The Bahamas or upon or against the earnings of a Licensee in the Port Area and outside The Bahamas or against any rentals or licence fees paid by any lessee or by a Licensee to the Port Authority or upon or against any interests or dividends paid by the Port Authority or by any lessee company of the Port Authority or by a Licensee to the holders of the evidences of indebtedness or shares or other securities of the Port Authority or of the company holding such lease from the Port Authority or of a Licensee or upon or against any salaries and remuneration by way of bonus participation in profits commission or otherwise paid by the Port Authority or by any lessee from the Port Authority or by a Licensee to any person employed by the Port Authority or by such lessee or by a Licensee within the Port Area, except that the person receiving such salary and remuneration or salary or remuneration is ordinarily resident within the Port Area.
- (2) Notwithstanding subsection (1), the Port Authority and its Licensees shall be liable to pay value added tax in accordance with the Value Added Tax Act (*No. 32 of 2014*).

4. Supplemental memorandum of understanding.

The Government of The Bahamas and the Port Authority shall during the continuance or any extension of the period of the exemptions, negotiate a memorandum supplemental to the memorandum of understanding dated the 26th April, 2016, to address any unresolved matters of concern or legal disputes.

5. Establishment of Port Area Investments Board.

- (1) The Government of The Bahamas and the Port Authority shall establish a joint investment board to be known as the Port Area Investments Board to approve and regulate foreign direct investment into the Port Area consistent with national economic policies and laws.
- (2) No license shall be issued by the Port Authority for foreign direct investment without the prior approval of the Board.
- (3) The Port Area Investments Authority shall be composed of—
 - (a) five persons appointed in writing by the Prime Minister;
 - (b) three persons appointed in writing by the Chairman of the Port Authority; and
 - (c) two persons appointed in writing by the Grand Bahama Chamber of Commerce representing the licensees of the Port Authority.
- (4) There shall be appointed a Secretary who shall be the chief executive officer of the Board.
- (5) Subject to the provisions of the *Schedule*, the Board may regulate its own proceedings.

6. Non-derogation.

Except as provided for herein, nothing in this Act shall derogate from the provisions of the Real Property Tax Act (*Ch. 375*), the Value Added Tax Act, 2014, the Gaming Act (*No. 40 of 2014*) and the Utilities Regulation and Competition Authority Act (*Ch. 306*).

7. Repeal of No. 30 of 2016.

The Grand Bahama (Port Area) Investment Incentives Act, 2016 is hereby repealed and the Grand Bahama (Port Area) Investment Incentives Regulations, 2017 are hereby revoked.

SCHEDULE

Section 5(5)

1. Tenure of Board Members.

- (1) An appointed member of the Board shall hold office for two years from the date of his appointment but shall be eligible for reappointment.
- (2) The appointment of an appointed member may be revoked by whom they were appointed.
- (3) An appointed member may at any time resign his office by instrument addressed to the Secretary who shall forward notification of such resignation to the Port Authority and the Prime Minister.

2. Meetings of the Board.

- (1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Board may determine, provided that such meetings shall take place at least twice a year.
- (2) The quorum of the Board shall be seven.
- (3) The decisions of the Board shall be by a majority of votes.
- (4) The Secretary shall cause to be given to a member of the Board, five working days' written notice of a meeting of the Board.

OBJECTS AND REASONS

This Bill seeks to demonstrate the Government's intention to stimulate the economic growth and development of Grand Bahama by extending the exemption of certain taxes and rates in the Port Area.

Clause 1 of the Bill provides for the short title and commencement of the Bill.

Clause 2 of the Bill provides for the interpretation of key phrases used throughout the Bill.

Clause 3 of the Bill provides that the Government seeks to exempt the Port Authority and its Licensees from the payment of certain taxes and rates. This clause further provides that value added tax is payable by the Port Authority and its Licensees. The purpose of limiting the exemption to one year is to allow the Government adequate time to renegotiate and settle on new terms in a memorandum of understanding.

Clause 4 of the Bill seeks to provide for a supplemental memorandum of understanding between the Government and the Grand Bahama Port Authority.

Clause 5 of the Bill provides for the establishment of the Port Area Investment Board.

Clause 6 of the Bill provides for non-derogatory provisions of the Real Property Tax Act, the VAT Act, the Utilities Regulation and the Competition Authority Act.

Clause 7 of the Bill repeals the Grand Bahama (Port Area) Investment Incentives Act, 2016 and revokes the Grand Bahama (Port Area) Investment Incentives Regulations, 2017.

