

PART VI

Interpretation

Interpretation. **85.** (1) For purposes of this Act, the expression

"annuity" means an amount payable on a periodic basis, whether payable at intervals longer or shorter than a year, and whether payable under a contract, will, trust or otherwise;

"assessable income" means income of any kind calculated in accordance with Divisions C to K and Division R of Part II;

"basic industry" means an industry prescribed by regulation as being a basic industry;

"benevolent organisation" means a body politic, corporate or collegiate, a company, a trust, a society and a fellowship or fraternity, whether corporate or not corporate, which is established in Barbados and all the resources of which are devoted to charitable, religious, educational or scientific purposes of a public nature, and no part of the income of which is payable or paid to or is otherwise available for the personal benefit of any proprietor, member or shareholder thereof;

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"brother" means a male person who is related to another person because each is a child of the same third person;

"business" includes a profession, vocation, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include an office or employment;

"charity" has the meaning assigned to it in section 2 of the *Charities Act* Cap. 243. and "charitable" has a corresponding meaning;

"child" includes a step-child;

"Commissioner" means the person holding or lawfully exercising the functions of the office of Commissioner of Inland Revenue;

"company" means any body corporate whether incorporated in Barbados or elsewhere and includes a society and an association other than an association of underwriters but does not include a local or public authority;

"defined benefit" has the meaning assigned to it in section 2 of the 2003-17. ¹ *Occupational Pension Benefits Act, 2003*;

"defined contribution benefit" has the meaning assigned to it in 2003-17. ¹ section 2 of the *Occupational Pension Benefits Act, 2003*;

"disposition" includes any trust, grant, agreement or arrangement;

"double taxation relief" means relief from tax under Part IV;

"emoluments" includes salary, wages, overtime remuneration, bonus, 1980-12.

commission, retirement plan benefits and retiring allowances, ^{1986-25.} any amount in respect of services, any prerequisite (including the ^{1992-28.} benefit of a rent free residence or any sum paid *in lieu* thereof), directors' fees that are subject to tax under this Act and that arise or accrue in or derive from or are received in Barbados;

"employee" means an individual in the service of some other person, including the Crown, the Government or the Crown in right of its government of any part of the Commonwealth outside Barbados

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Act 2003-17 has not been proclaimed.

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or a foreign state or sovereign, and includes an officer, and "employment", "employer" and "employed" have corresponding meanings;

^{1998-42.} "equity interest" has the meaning assigned to it by section 2 of the ^{Cap. 320B.} *Mutual Funds Act*;

^{1971-42.} "fiscal period", in relation to a company or other person carrying on a business, means the period for which the accounts of the business have been ordinarily made up and accepted for the purposes of income tax and, in the absence of an established practice, the fiscal period is that adopted by the person with the approval of the Commissioner; but no fiscal period may exceed 53 weeks and no change in a usual and accepted fiscal period may be made for the purposes of this Act without the concurrence of the Commissioner;

"general insurance business" means an insurance business other than a life insurance business or a registered retirement plan business;

"incapacitated person" means a lunatic, idiot, insane person and any other person who is unable by reason of mental incapacity to comply with this Act;

"income year" means

- .(i) in the case of a company or other person carrying on a business, a fiscal period; and
- .(ii) in the case of an individual, a calendar year, and when an income year is referred to by reference to a calendar year the reference is to the income year coinciding with or ending in that calendar year;

^{1978-44.} "insurance company" means a company carrying on a general insurance business, a life insurance business or a registered retirement plan business;

"international business company" has the meaning assigned to it by ^{Cap. 77.} section 3 of the *International Business Companies Act*;

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"legal representative" means an executor, administrator or other representative of a deceased person;

"life insurance business" means ordinary life insurance business, industrial life insurance business; general and pension annuity business and retirement plan business, but does not include registered retirement plan business;

"maintenance" means an amount paid by a person in respect of the support of his spouse or children, whether as alimony or otherwise, pursuant to a decree, order or judgment of a competent tribunal, where the amount is paid as one of a number of periodic payments and where the person making the payment is habitually living apart from his spouse or children, as the case may be, at the time the payment is made;

"mutual fund" means a mutual fund authorised to carry on business 1998-42. under the *Mutual Funds Act*, Cap. 320B.

"non-resident" means not resident in Barbados;

"office" means the position of an individual entitling him to a fixed or ascertained stipend or remuneration, and includes a judicial office, the office of a Minister, the office of a member of the Senate or House of Assembly, any other office the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity, and also includes the position of a corporation director, and "officer" means a person holding such an office;

"pension plan" means a retirement plan registered under the 2003-17.¹ *Occupational Pension Benefits Act, 2003*;

"preference dividend" means a dividend payable on a preferred share 1975-8. or preferred stock at a fixed gross rate per cent, issued by a resident company before the 1st January, 1975, or, where a dividend is payable on such a preferred share or preferred stock partly at a fixed gross rate per cent and partly at a variable rate, such part of that dividend as is payable at a fixed gross rate per cent;

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"prescribed" in the case of a table, a form, or the information to be given in a form, means prescribed by order of the Commissioner, and, in any other case, means prescribed by regulation;

"property" means property of any kind whatsoever, whether real or personal, corporeal or incorporeal, and, without restricting the generality of the foregoing, includes a right of any kind whatsoever, a share, or a *chose in action*;

"purchased annuity" means an annuity granted for adequate consideration in money or money's worth in the ordinary course of a business of granting annuities on human life, but does not include

- .(i) an annuity purchased under a registered retirement plan; or
- .(ii) an annuity purchased by any person in recognition of the past services of any other person; or

- (iii) an annuity purchased under any direction in a will, settlement or trust or purchased to provide an annuity payable under or out of property subject to a will, settlement or trust;

1998-31. "qualifying insurance company" has the meaning assigned to it by Cap. 310. section 2(1) of the *Insurance Act*;

"registered", except when applied to a unit trust, means accepted by the Commissioner and registered by him for the purposes of this Act, for a specified time or until the registration is withdrawn or cancelled by the Commissioner;

"registered retirement plan business" means any business undertaken for the purpose of establishing and conducting a retirement plan that is in fact a registered retirement plan in the income year in which the business is being carried on;

1998-30. "registered retirement savings plan" means a retirement savings plan approved and registered by the Commissioner for the purpose of this Act that complies with the provisions of this Act and the regulations;

"registered unit trust" means any unit trust declared by an order of the Minister to be a registered unit trust;

"relative" means a person who is related by blood to another person, and for the purposes of this definition a legally adopted child shall be deemed to be related by blood to its adopted parent and to every person to whom the adopted parent is related by blood;

"retirement plan" means 2003-17.¹

- .(i) a pension plan;
- .(ii) an arrangement or scheme, whether established by legislation, trust, contract or otherwise, whereby a periodic payment is made or an annuity for life is provided to an individual by an employer or former employer of that individual; or

- (iii) a registered annuity contract between an individual and a person carrying on an annuities business, in consideration of payments made by that individual;

"retirement plan benefit" includes any amount received out of or under

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a retirement plan other than as a premium or consideration for administering the plan, as a pension or otherwise, and, without restricting the generality of the foregoing, includes any payment to a beneficiary under the plan or to an employer or former employer of the beneficiary or his spouse, but does not include a lump sum payment on retirement;

"royalties"¹ means any payment of any kind received as consideration ^{1985-6.} for the use of or the right to use, any copyright of literary, artistic, or scientific work including royalties in respect of motion pictures and works on film, tape or other means or reproduction for use in connection with radio or television, any patent, trademark, design or model, plan, secret formula or process, or scientific experience;

"salary" means the assessable income of a person from an office or employment and includes all fees for services not rendered in the course of a business of that person but does not include retirement plan benefits or allowances on retirement;

"settlement" includes any disposition, trust, covenant, agreement, arrangement or transfer of assets;

"settlor" includes any person by whom a settlement was made or entered into, either directly or indirectly, and, without restricting the generality of the foregoing, includes any person who has provided or undertaken to provide funds directly or indirectly for the purpose of a settlement or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement;

"share" includes any interest in the capital of a company;

"shareholder" includes any member of a company, whether the capital of that company is divided into shares or not;

"sister" means a female person who is related to another person because each is a child of the same third person;

¹Has effect from year of income 1984.

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"tax" means

□.(i) in relation to a person liable to tax under subsection (1) of section 3, the income tax imposed by that subsection,

□.(ii) in relation to a company the corporation tax imposed by section 3(2);

"taxable income" means assessable income less the deductions permitted by Divisions L to Q of Part II;

"unit trust" means any arrangement that provides facilities for the participation by persons as beneficiaries under a trust in which an interest in the property subject to the trust or in the income or other gains arising therefrom may be purchased in the income or other gains arising from the acquisition, holding, management or disposal of securities or any other property whatsoever;

"wages" means the assessable income of a person from an office or employment not rendered in the course of a business of that person but does not include retirement plan benefits or allowances on retirement; and

"year of assessment" means the year following an income year.

□.(2) For the purposes of this Act, where, in an income year, a nonresident person

□.(a) produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed, in whole or in part, anything in Barbados, whether or not he exported that thing without selling it prior to exportation; or

□.(b) solicited orders or offered anything for sale in Barbados through a factor, agent or servant, whether the contract or transaction was to be completed inside or outside Barbados or partly in and partly outside Barbados,

he shall be deemed to have been carrying on business in Barbados in that income year and the income of that business shall be deemed to be income derived from Barbados for that income year.

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□.(3) For the purposes of this Act, in determining whether a person, alone or together with others, exercises control over another person, a relationship of control shall be deemed to exist where

□.(a) that other person is a company and that first person, alone or together with those others, holds a majority of the shares of the company or otherwise possesses by himself, a relative, a relative of his wife or a nominee sufficient voting power to ensure that the affairs of the company are conducted in accordance with his wishes; and

□.(b) that other person is a member of a partnership and that first person has a right to more than one-half of the assets or income of the partnership

and in determining whether a certain number of persons exercise a relationship of control over a company, persons in partnership and persons interested in the estate of a deceased person or in property held in trust shall, respectively, be deemed to be a single person.

□.(4) For the purposes of this Act, "industrial building or structure" 1983-21. means a building or structure in use or purchased, constructed, reconstructed, altered or adapted to be used for the purposes of

□.(a) an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy; or

□.(b) a trade carried on in a mill, factory or other similar premises;
or

□.(c) a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process; or

□.(d) a trade which consists in the storage of goods or materials

□.(i) which are to be used in the manufacture of other goods or materials, or

□.(ii) which are to be subjected in the course of trade to any process, or

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(iii) which, having been manufactured or produced or subjected in the course of trade to any process, have not been delivered to a purchaser; or

□.(e) a trade which consists in the working of any mine, oilwell or other source of natural deposits capable of being lifted or extracted from the earth; or

□.(f) scientific research, exclusively,

and includes any building or structure provided by the person carrying on such trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose, but does not include any building or structure in use as, or part of a dwelling-house, retail shop, premises used for making repairs, showroom, hotel or office or for any purpose ancillary to the purposes of a dwelling-house, retail shop, premises used for making repairs, showroom, hotel or office. In determining whether a building or structure is an industrial building or structure

□.(i) a part of a trade or undertaking shall be deemed to be severable from the remainder of that trade or undertaking and to constitute a separate trade or undertaking, and

□.(ii) where part of a whole building or structure could be classified as an industrial building or structure and part could not and the capital expenditure in respect of the part that could not be so classified is not more than 10 per cent of the total capital expenditure on the building or structure, the whole building shall be deemed to be an industrial building or structure; and where such percentage exceeds 10 per cent, the whole building shall be deemed not to be an industrial building or structure.

(5) For the purposes of this Act

1996-5. (a) a person shall be deemed to be resident in Barbados in an income year if that person

(i) spends in the aggregate more than 182 days in Barbados in that income year, or

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(ii) is ordinarily resident in Barbados in the relevant income year;

□.(b) a person shall be deemed not to be resident in Barbados in an income year if he

□.(i) did not spend in the aggregate more than 182 days in Barbados in that income year,

□.(ii) was not domiciled in Barbados at any time in that income year, and

□.(iii) gives notice in writing to the Commissioner within the time limited by this Act for delivering his return of assessable income for that income year to the Commissioner that he wishes to be treated as a non-resident in respect of that income year.

□.(6) For the purposes of sub-paragraph (ii) of paragraph (a) of 1996-5. subsection (5), a person shall be deemed to be ordinarily resident in Barbados in an income year if that person

□.(a) has a permanent home in Barbados; and

□.(b) has given notice to the Commissioner that he intends to reside in Barbados for a period of at least two consecutive income years, including the income year in question.

□.(7) For the purposes of subsection (6) "permanent home" means 1996-5. accommodation in Barbados which is permanently available for the use of the person in question but does not include accommodation retained for his use in Barbados solely as a vacation property.