



No. 12 of 2008

I assent,

(SIR COLVILLE N. YOUNG)
Governor-General

29th August, 2008.

AN ACT to amend the Income and Business Tax Act, Chapter 55 of the Laws of Belize, Revised Edition 2000-2003, to provide for the imposition of a petroleum surcharge on the revenues derived from petroleum operations when the crude-oil prices are high on the world market; to provide for a more equitable sharing of revenues between the Government and the oil companies; and to provide for matters connected therewith or incidental thereto.

(Gazetted 30th August, 2008.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:-

1. This Act may be cited as the

Short title.

**INCOME AND BUSINESS TAX (AMENDMENT)
ACT, 2008,**

- CAP. 55 and shall be read and construed as one with the Income and Business Tax Act which, as amended, is hereinafter referred to as the principal Act.
- Act No. 3/01
3/04
6/05
14/05
10/06.
- Amendment of section 2. 2. Section 2 of the principal Act is hereby amended by inserting the following definition in its proper alphabetical order:
- ‘ “petroleum surcharge” means the surcharge levied under Part IV of this Act.’
- Amendment of section 21. 3. Section 21 of the principal Act is hereby amended in the *Proviso* to subsection (1) thereof [added by Act No. 10 of 2006], by substituting the word “**persons**” for the word “companies” occurring therein.
- Act No. 10/06
- Amendment of section 100. 4. Section 100 of the principal Act is hereby amended in paragraph (iii) thereof by substituting the words “**at the rate of forty per centum of such Chargeable Income**” for the words “at the tax rate of general application to all companies in Belize” occurring therein.
- Amendment of section 100.
- Addition of new Part IV. 5. The principal Act is hereby amended by the addition of the following new Part IV and sections 122 to 133 immediately after section 121:

“Part IV

PETROLEUM SURCHARGE

Interpretation. 122. (1) In this Part, unless the context otherwise requires:-

“**Chargeable Revenue**” means the aggregate of all proceeds of

sales and other dispositions of crude oil above the Threshold Price, whether in cash or in kind, or whether actually received or accrued, **without any deduction save and except** the following deductions:-

CAP.
225

(a) **Royalty** paid to the Government by a contractor under section 31 of the Petroleum Act and in accordance with the terms of a Production Sharing Agreement in respect of sales and other dispositions of crude oil above the Threshold Price; and

(b) **Production Share** paid to the Government by a contractor in accordance with the terms of a Production Sharing Agreement in respect of sales and other dispositions of crude oil above the Threshold Price;

Act No.
12/08.

“**Class A Contractor**” means a contractor who is in commercial production of petroleum at the date of commencement of the Income and Business Tax (Amendment) Act, 2008;

“**Class B Contractor**” means a contractor other than a Class A Contractor;

Act No. 12/08.

“Cost-recovery period” means the period specified in section 127 of this Act, during which a contractor will be exempt from the payment of petroleum surcharge under this Part;

“Existing Oil Field” means the oil field which is in commercial production at the date of commencement of the Income and Business Tax (Amendment) Act, 2008;

“Government” means the Government of Belize;

“New Oil Field” means an oil field which is not an Existing Oil Field as defined in this section;

“Threshold Price” means -

- (a) in the case of a Class A Contractor in respect of an Existing Oil Field - **US\$90.00 per barrel;**
- (b) in the case of a Class A Contractor in respect of new oil fields on commercial production - **US\$100.00 per barrel;**

- (c) in the case of
a Class B
Contractor - **US\$100.00**
per barrel.

(2) Other words and expressions used in this Part but not defined herein shall have the meanings respectively assigned to them in Parts I and II of this Act or in the Petroleum Act, unless the context otherwise requires.

CAP. 55
CAP. 225

Imposition of
petroleum
surcharge.

123. (1) Subject to this Part, there shall be levied and paid by every person engaged in petroleum operations a petroleum surcharge (hereinafter also referred to as ‘**the surcharge**’) at the rates specified in section 124 of this Act, on the Chargeable Revenue of such person as defined in this Part, whether received in Belize or elsewhere.

(2) The surcharge levied under subsection (1) above shall be in addition to the income tax payable by such person under Parts I and II of this Act on the profits arising from petroleum operations, but the amount of the surcharge paid under this Part shall count as an expense for determining the chargeable income of such person for the purpose of computing his or its income tax liability.

(3) The surcharge levied by this section shall be payable in the currency of the United States of America.

Rates of
surcharge.

124. (1) The surcharge on the Chargeable Revenue of a person shall be levied at the following rates:

- (a) in the case of a Class A Contractor in respect of an Existing Oil Field, as defined in section 122 - **50% of Chargeable Revenue**
- (b) in the case of a Class A Contractor in respect of any new oil field on commercial production and in the case of a Class B Contractor - **such percentage of Chargeable Revenue as shown in the Tenth Schedule to this Act depending on the price of crude oil.**
- Tenth Schedule.

(2) The special rate of 50% for a Class A Contractor in respect of an Existing Oil Field, as shown above, shall remain in force for a period of five years from the commencement of the Income and Business Tax (Amendment) Act, 2008, and thereafter, such a Contractor

Tenth Schedule. will be liable to pay the surcharge in accordance with and at the rates shown in the Tenth Schedule.

Adjustments to Threshold Price. 125. (1) The Threshold Price specified in section 122 shall be reviewed annually by the Government in consultation with representatives of the petroleum industry with a view to determining whether any adjustments are needed to take account of any material changes in the prevailing circumstances.

(2) A Bill to give effect to any such adjustments shall be introduced into the next practicable sitting of the National Assembly after such review.

Crude Oil Price and hedging arrangements. CAP. 225 S.I. No. 112/92 126. (1) For the purposes of this Part, crude oil prices will be determined in accordance with the Petroleum Act, the Petroleum Regulations and the terms of a Production Sharing Agreement; and, subject to subsection (2) below, no deductions will be allowed for any losses caused by hedging arrangements unless such arrangements were made with the prior written consent of the Minister given with the approval of the Cabinet.

(2) In the case of a Class A Contractor, any existing hedging arrangements pertaining to an Existing Oil Field will be taken into consideration in determining the well-head price for the purpose of computing the petroleum surcharge, **but not for any other tax computations.**

Exemption from surcharge during cost-recovery period. 127. (1) Subject to the provisions of this section, a Class B Contractor will be exempt from the payment of surcharge under this Part

in respect of an oil field from the date of declaration of commerciality to allow for the recovery of the initial capital investment (i.e., approved exploration costs that apply to that field and costs in accordance with the approved development plans for the field).

(2) For the purpose of subsection (1), the maximum exemption period will be **three years** from the date of declaration of commerciality of the field for onshore fields, and **five years** from such declaration for offshore fields:

Provided that if the initial capital investment is recovered before the expiry of the maximum exemption period specified above, as verified by the Inspector of Petroleum, the exemption period will immediately cease and the Contractor will become liable for the payment of the surcharge under this Part.

(3) Subsections (1) and (2) of this section will also apply to a Class A Contractor in respect of any new oil field upon declaration of commerciality.

Duty to make returns and pay surcharge.

128. (1) The surcharge levied under this Part shall be computed on a quarterly basis and every person or entity who is liable to pay surcharge under this Part shall file a return of his Chargeable Revenue by the last day of the month following the end of the preceding quarter, or at such other times as may be specified, in a form prescribed by the Commissioner and accompanied by payment of the estimated surcharge due for that period.

(2) Whoever fails to file a return and pay surcharge required under subsection (1) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(3) Without prejudice to subsection (2) above, every person who fails to file a return and pay the surcharge due, within the prescribed time, shall be liable to pay a penalty of ten percent of the amount due or assessed for each quarter or part of the quarter in which the return was not delivered and in addition, shall be liable to pay interest at the rate of one and a half *per centum* per month.

Commissioner
to make
assessments.

129. (1) Where a return has been delivered under this Part, the Commissioner may:-

- (a) accept the return and make an assessment; or
- (b) refuse to accept the return and determine to the best of his judgment the amount of surcharge payable and assess accordingly.

(2) Where a return has not been delivered, the Commissioner shall use his best judgment to determine the proper amount of surcharge due and make an assessment accordingly.

(3) The Commissioner may by notice in writing require any person or entity engaged in petroleum operations to furnish, within a

specified time, a return of gross revenues and such other particulars as may be required for the purposes of this Part to enable him to ascertain the Chargeable Revenue of such person or entity and, in particular, may require any person to produce all books, bank accounts, statements or other documents in his custody or under his control relating to the petroleum operations.

(4) Every person or entity engaged in petroleum operations, whether or not such person or entity is liable to pay surcharge, shall, if required by the Commissioner by notice in writing to make and deliver a return of his or its gross revenues, make and deliver such return to the Commissioner within ten days of the service of such notice.

(5) The surcharge assessed under this section is payable to the Commissioner by the person or entity assessed as a debt due and payable without further demand notwithstanding any review or appeal, whether made or filed under this Act or under any other law, and such surcharge or part thereof shall be refunded if the review or appeal is determined in favour of the person or entity.

**Additional
assessments.**

130. (1) Where it appears to the Commissioner that any person or entity liable to pay surcharge under this Part has not been assessed or has been assessed at a lower amount than that which ought to have been charged, the Commissioner may, at any time within the year of assessment or within six years after the expiration thereof, assess such person or entity at such additional amount as, according to his

judgment ought to have been charged, and the provisions of this Act as to notice of assessment, appeal and other proceedings shall apply to such assessment or additional assessment and to the surcharge charged thereunder.

(2) The Commissioner may, if satisfied that the act of omission or commission amounts to fraud or contrivance, or gross and wilful neglect on the part of the person or entity assessed, or to be assessed, charge such person or entity in respect of such additional surcharge and penalty an amount equal to double the amount of the surcharge and penalty payable on the excess.

(3) The provisions relating to assessments, review, objections, appeals, collections and the recovery of income tax contained in Part I of this Act shall apply *mutatis mutandis* to assessments, review, objections, appeals, collections and the recovery of surcharge under this Part.

Penalty for evasions.

131. Every person or entity who for the purpose of evading the payment of surcharge under this Part by himself or itself or by any other person or entity, knowingly makes any false statement or false representation shall be liable on summary conviction to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

General penalty.

132. (1) Every person or entity who contravenes any provision of this Part for which no specific penalty is provided commits an offence and is liable on summary conviction to

a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and term of imprisonment.

(2) Where an offence under any provision of this Part is committed by a body of persons, whether corporate or unincorporate, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as director, manager, secretary or other similar officer, or was purporting to act in such capacity, shall be guilty of that offence and punished accordingly, unless he adduces evidence to show that the offence was committed without his knowledge, consent or connivance.

Regulations. 133. (1) The Minister may make regulations for the better carrying out of the provisions of this Part and for prescribing anything that needs to be prescribed.

(2) All regulations made by the Minister under this Part shall be laid before the National Assembly as soon as may be after the making thereof and shall be subject to negative resolution.”

Addition of Tenth Schedule.

6. The principal Act is hereby amended by the addition of the Schedule to this Act captioned “**Tenth Schedule**” immediately after the Ninth Schedule.

Commencement.

7. This Act shall come into force on the **1st day of September, 2008.**

TENTH SCHEDULE
(Section 124)

RATES OF PETROLEUM SURCHARGE
(related to the price of crude oil)

PRICE OF CRUDE OIL		SURCHARGE
FROM	TO	PERCENTAGE
[US\$/BBL]	[US\$/BBL]	(%)
0.00	100.00	0
100.01	105.00	15
105.01	110.00	17
110.01	115.00	19
115.01	120.00	21
120.01	125.00	23
125.01	130.00	25
130.01	135.00	27
135.01	140.00	29
140.01	145.00	31
145.01	150.00	33
150.01	155.00	35
155.01	160.00	37
160.01	165.00	39
165.01	170.00	41
170.01	175.00	43
175.01	180.00	45
180.01	185.00	47
185.01	190.00	49
190.01	and higher	50