



## **GUIDANCE NOTE**

### **INTERNATIONAL BUSINESS COMPANIES (AMENDMENT) ACT, 2018 FSC's INTERPRETATION OF THE GRANDFATHERING OF ELIGIBILITY FOR TAX EXEMPTION AND EXEMPTION FROM ECONOMIC SUBSTANCE**

FSC/2/GN/007

It has come to the attention of the Financial Services Commission (the "FSC") that there is uncertainty with respect to the interpretation and application of the eligibility of International Business Companies (IBCs) for tax exemptions and exemption from economic substance requirements ("the grandfathering provisions") related to the International Business Companies (Amendment) Act, 2018 (Act No. 24 of 2018), specifically section 14, which was amended in 2019 by Act No. 17 of 2019 and the Economic Substance Act, 2019. There appears to be some ambiguity in the interpretation and applicability of the grandfathering provisions to IBCs incorporated on or before October 16, 2017.

To bring clarity to this issue, the FSC sets out below its interpretation of the said section 14, which is in line with requirements of the OECD's Forum on Harmful Tax Practices ("FHTP").

#### **A. Tax:**

In respect of an IBC incorporated on or before October 16, 2017 (irrespective of whether the IBC owns, holds, or deals in IP assets):

- (a) all income of such IBC,
- (b) dividends or other distributions paid by the IBC to persons who are not resident in Belize,
- (c) interest, rent, royalties, compensations, and other amounts paid by the IBC to persons who are not resident in Belize, and
- (d) capital gains realized with respect to any shares, debt obligations or other securities of such IBC by persons who are not resident in Belize,

are exempt from income tax, business tax and any withholding tax in Belize until June 30, 2021 SAVE AND EXCEPT THAT any "relevant activity" or new asset acquired after October 16, 2017 shall not be eligible to benefit from such tax exemptions.

Such “relevant activity” means and includes:

- (a) Banking business;
- (b) Insurance business;
- (c) Fund management business;
- (d) Financing and leasing business;
- (e) Headquarters business;
- (f) Distribution and service centre business;
- (g) Shipping business;
- (h) As a holding company, engaged, or where one or more of its subsidiaries is engaged in one of the activities listed under paragraphs (a) to (g) above.

**B. Economic Substance:**

In respect of an IBC incorporated on or before October 16, 2017, if such IBC’s business activities consists of the core income generating activities in relation to a relevant activity, such IBC shall comply with the substantial economic presence requirements of the Economic Substance Act, 2019 but shall have the period up until June 30, 2021 to meet such compliance and in that respect shall report to the Financial Services Commission the existence of a relevant activity with core income generating activities.

The FSC reiterates that the grandfathering provisions expire on 30 June 2021.

**FINANCIAL SERVICES COMMISSION**

29 May 2020