

Contribution by the  
Rt. Hon. Hubert A. Ingraham, M.P.  
Prime Minister  
during Parliamentary Debate  
of the Business Licence Bill, 2010  
Monday, 26<sup>th</sup> July, 2010

## **Introduction**

Since returning to office in 2007, my Government has remained steadfastly committed to strengthening the domestic business environment. Our overriding objective in doing so is to facilitate the creation of new businesses and the expansion of existing ones, both of which are vital to securing growing employment opportunities for Bahamians and better standards of living. That is of particular importance during the very difficult times that our economy and workers are currently experiencing as a result of the Great Global Recession.

Enhancing the business environment is but one of the many multi-faceted initiatives that we have launched and are implementing to grow the Bahamian economy.

Briefly, I would recall that these include:

- Modernizing all aspects of Customs operations to bring them up to international standards and place the service in a position to better serve the needs of the private sector and facilitate international trade;
- Securing enhanced export opportunities to the European Union (E.U.) through our participation in the Economic Partnership Agreement with the E.U.;
- Negotiating membership in the World Trade Organization to better protect the export interests of the private sector within the context of a predictable and binding rules-based trading system;
- Initiating fundamental structural reforms, including results-based management, within the public service to provide more effective and efficient services to citizens and enterprises;
- Streamlining the regulation of non-bank financial services, partly by simplifying authorization and reporting requirements and partly by improving operating efficiency within the regulatory authority;

- Launching proactive investment promotion mission in key world cities, in cooperation with the private sector; and
- Implementing a new Small and Medium Size Business Development Framework to better serve the needs of that most important sector our economy with its significant job-creation potential.

The Business Licence Bill, 2010 serves as a pivotal component of the Government's comprehensive and integrated economic growth strategy. The objective of the Bill is to simplify the legal and regulatory requirements to both start and operate a business in both New Providence and the Family Islands, as well as facilitate a one-stop shop approach to business licencing. As a result, business licencing will become easier, faster and more efficient and it will impose much less of a compliance burden on the private sector.

It is proposed that the new Business Licence Act take effect on January 1, 2011 to align its entry into force with the start of the next annual licencing cycle. In the

meantime, officials will be working to further streamline application procedures to ensure that the granting of prior approvals by other regulatory agencies is clear-cut and as seamless as possible. They will also be meeting with representatives of the Chamber of Commerce and the business community to review and explain the new licencing requirements and application procedures.

### **Licencing Requirements**

Licencing requirements, in particular, will be greatly streamlined. The Bill proposes to eliminate the need for separate applications in respect of shop, liquor, music and dancing and other occasional licences. As well, businesses will no longer need to apply for the registration of business names with the Registrar General; that will be taken care of jointly by the Ministry of Finance/Business Licence Office along with the application for a business licence. As such, the fee of \$150 for the registration of a business name will be eliminated.

With the above, the Registration of Business Names Act, the Shop Licences Act, the Liquor Licences Act and the Music and Dancing Licences Act will all be repealed.

### **Approval and Renewal of Business Licences**

In addition, the processing and approval of business licence applications will be more efficient and prompt. The new application forms will clearly spell out all prior regulatory approvals required of various types of businesses such that they will be in a position to more readily submit complete and adequate applications for business licences, along with the requisite business licence tax.

Once that has been done, the Secretary will be required to grant a licence to the applicant within seven working days of receipt of the application. Waiting inordinate and uncertain amounts of time for the processing and approval of an application to start up a new business will be a thing of the past.

## **Business Licence Tax**

The calculation of business licence fees is presently complex and cumbersome. The fee varies depending on the size of the business, with six different categories, namely petty, very small, small, medium, large or very large. The fee also depends on the profitability of the enterprise, with four different categories of profit, namely low, medium, high and very high. Further complicating calculations is the fact that three different rates of fee are applied:  $\frac{1}{2}$  of 1% of turnover, 1% of turnover and  $1\frac{1}{2}$ % of turnover. And, as if that were not complex enough, profitability is not only calculated by applying a list of allowable costs to produce turnover but that list is different depending on which industry a business finds itself in.

One can only imagine the inequities and arbitrariness engendered by such a convoluted calculation of fees, not to mention the opportunities for impropriety. For example, service and repair entities may deduct direct

labour and National Insurance costs in calculating profitability but retail and wholesale merchandisers may not. Manufacturers may deduct depreciation of production plant but restaurants and proprietary clubs may not.

Under the new Business Licence Bill, the tax calculation will be significantly simpler and considerably less arbitrary and thereby less subject to manipulation. Three general tax rates will apply, based on the turnover of a business, namely:

- \$100 per annum where a business has a turnover not exceeding \$50,000;
- 0.5% of turnover for businesses with turnover exceeding \$50,000 per annum but not exceeding \$500,000 per annum; and
- 0.75% of turnover for businesses with turnover exceeding \$500,000 per annum.

Besides introducing this simpler tax structure, the Bill also simplifies the tax calculation by basing it directly on business turnover, or total revenue, rather than requiring

the deduction of arbitrary costs and the calculation of notional profitability.

A special rate of ½ of 1% of turnover will apply for businesses in the following sectors: agriculture and animal husbandry/mixed farming; fishing/fish farms; and food/meat/fruit processing. A tax rate of 1% of turnover will apply to service businesses in relation to the following professions: accountants, doctors, lawyers, architects, engineers and other similar or like professions.

A separate and simpler tax schedule is proposed for gasoline stations, again based on total revenues. This schedule replaces a complex fee calculation based on business size and profitability.

New businesses will continue to pay an annual business licence tax of only \$100. And, with the elimination of the need for shop, liquor and music and dancing licences, businesses involved in these areas will now only pay for the annual business licence and separate and additional fees will no longer be required. This will eliminate the need to pay a bevy of small “nuisance” fees such as, for example, \$1.00 for a shop licence; \$100.00 for



a wholesale liquor licence; and \$200.00 for a restaurant liquor licence.

I would note that the private sector, as represented by the current and past Presidents of the Chamber of Commerce, last week voiced their approval of, and support for, the new Business Licence Bill. The current President was quoted as saying that “it is a reasonable statement of affairs, and is certainly an improvement on the old Bill and legislation”. The past President was quoted as saying “I think that’s a good compromise; I like it. I applaud the Government. What is good about it is that it simplifies it all – it eliminates this working out of gross profit. What is beautiful about this is that it simplifies it all”.

### **Impact of New Licence Fees**

- The proposed new tax structure for business licence will, of course, result in no change in the taxes payable by firms with turnover under \$50,000 per annum as the tax remains at \$100.

- Businesses in the agricultural, animal husbandry and mixed farming sector will see a small reduction in aggregate taxes as they go from an effective tax rate of roughly 0.58% to 0.5%.
- The tax rate for fishing and fish farms will go from an effective rate of roughly 0.47% to 0.5%.
- For Food, Meat and Fruit Processing, tax rate remains unchanged at 0.5%.
- Professional Services in aggregate will face an unchanged tax rate of 1%.
- Businesses with turnover over \$50,000 per annum but not exceeding \$500,000 will face a tax rate essentially unchanged at 0.5%.
- Finally, for firms with turnover greater than \$500,000 per annum, the business licence tax rate will go up from an effective rate of 0.68% to 0.75%.

### **Business Licence Tax Holiday**

As a means of supporting and encouraging the smaller firms in the Bahamian economy during these

difficult economic times, the Government announced in the 2010/11 Budget Communication that it was providing a two-year holiday from the payment of business licence tax for small and medium size businesses with turnover under \$250,000. This holiday extends over the 2010 and 2011 business licence years.

### **Appeal Board and Procedures**

The Business Licence Bill also proposes to streamline the appeal procedure where applicants which to appeal a decision by the Secretary to refuse a business licence or an assessment of tax payable. To that end, appeals will in future be heard and dealt with by the Business Licence Review Board whose establishment and mandate are set out in the Bill. The Board will replace the Supreme Court as the arbiter of business licence appeals. The Board will have the powers of a magistrate for compelling attendance of persons to give evidence on oath and for the production and inspection of documents.

For appeals in New Providence, the Review Board will comprise a maximum of seven members, including a Chairman, appointed by the Minister. The constitution of Boards in Grand Bahama and the Family Islands will be slightly different in order to better respond to local needs; such Boards will consist of up to five members appointed by the Minister, including the Chairman, a member of the New Providence Board and two members from the Local Government districts, one of whom shall be from the district in which the appealing business is located.

Except where prescribed by regulation, the Board will be empowered to establish its own operating procedures. As well, the Board will have the authority to make, on its own initiative, investigations and inquiries and seek and receive evidence additional to that tendered by the parties to any appeal.

The Review Board will be required to render its decision in writing, including its reasons for the decision, within thirty days of an appeal to the Board. The appeals

themselves will be required to be lodged within twenty-one days of the decision by the Secretary.

## **Offences and Penalties**

In the Business Licence Bill, 2010 a distinction has been made between offences of a fraudulent nature and all other offences. For any action that is proven to be fraudulent, there will no longer be an option between a fine of \$10,000 and imprisonment for two years. Such offences will automatically carry a prison term, which will not exceed two years.

For other types of offences such as carrying on a business without a licence, obstructing the Secretary in the exercise of his functions, or failing to maintain accounts and records as required, for example, the penalty will be a fine of \$5,000 plus the sum of \$100 for each day the offence continues after the date to which the conviction relates. These amounts are more reasonable and straightforward than the current structure of fines for such offences. In particular, the possibility of confiscating

goods, machinery and equipment where a business operates without a licence has been eliminated.

For offences committed by corporations or firms, every director, secretary and officer of the corporation or every partner in the firm, as the case may be, will be guilty of the offence and liable to a like penalty as the corporation or firm.

To simplify the administration of penalties, the Bill proposes to grant the power to the Secretary to compound offences where he is satisfied that an offence has been committed in respect of which a fine is prescribed. Such power will only be exercisable where the person admits in writing that he has committed the offence and requests the Secretary to deal with it.

## **Regulations**

As for the regulation making powers of the Minister, the Bill proposes that he be given the power, among others, to prescribe or vary: the rates of tax payable in respect of any application; the manner and forms in

which applications for licences are made, including their contents; the forms in which licences are issued; the terms, conditions and restrictions under which licences may be held.

### **Exemptions from Business Licence**

The Bill proposes to tighten up the various exemptions from the requirement for business licence. For one, only ecclesiastical, charitable and cultural institutions and organizations registered as non-profit entities within The Bahamas will be eligible for exemption. As such, all institutions operating for profit, such as private schools, will be subject to the requirement to pay business licence tax. The same treatment will apply to medical clinics and hospitals operating other than in the service of the Government or of a public body.

As well, a telecommunication service subject to a licence under section 21 of the Broadcasting Act will no longer be exempt but will be subject to an annual business licence tax of 3% of gross revenue.

## **Banks and Insurance Companies**

As a means of rationalizing the various fees and taxes paid by the private sector, the Bill proposes to incorporate into the new Business Licence Act the present annual fees imposed on the assets of Banks and Trust Companies appointed by the Controller of Exchange as authorized dealers as defined in paragraph (1) of Regulation 42 of the Exchange Control Regulations. Similarly, the new Act will also incorporate the taxes imposed on insurance companies' gross premiums collected in respect of local policies.

## **Conclusion**

In conclusion, I wish to stress the vital importance of this new Business Licence Bill to securing important enhancements to the domestic business environment. It is a Bill that will facilitate the start-up of new businesses and streamline the process of business



licence renewal. As I have indicated, the private sector is strongly supportive of the Bill and, as such, it is incumbent on this Honourable House to support it as well.