



BARBADOS REVENUE AUTHORITY

4th Floor, Weymouth Corporate Centre, Roebuck Street, Bridgetown, Barbados, BB 110800
Tel: (246) 535-8600 | Fax: (246) 535-8641 | Email: bramail@barbados.gov.bb

GUIDANCE NOTE

PPG No. 004/2020

Income Year 2020

Income Tax Act Cap. 73

Impact of Covid-19 on the Tax Residency Status of Individuals

Introduction

The Barbados Revenue Authority (“the Authority”) has been actively monitoring the impact of COVID-19 on the tax residency status of individuals in Barbados and as a result, the Authority believes that guidance must be issued to provide clarity as to the tax treatment status of individuals for Income Year 2020.

The COVID-19 pandemic has forced many governments including the Government of Barbados to take unprecedented measures such as restricting travel (essential and non-essential) and implementing strict quarantine requirements in an attempt to deal with the global outbreak of the virus. As a consequence, the Authority envisages two possible scenarios may occur, these are:

- 1) A person is temporarily away from their home (for example, on holiday or a business trip in Barbados) and gets stranded in Barbados by reason of the COVID-19 pandemic and as a result, spends in the aggregate more than 182 days in Barbados; and
- 2) A person is working in Barbados and has acquired residence status in Barbados, but he temporarily returns home to his “previous home country” because of the COVID-19 pandemic and as a consequence, the person may not, achieve the aggregate more than 182 days in Barbados, or, regain residence status on their return to the “previous home country”.

In formulating this guidance, the Authority has reviewed the guidance from the Organization for Economic Co-operation and Development (OECD) titled “OECD Secretariat Analysis of Tax Treaties and the Impact of the Covid-19 Crisis” dated April 3, 2020.

Legislative Overview

Section 85 (5) (a) (I) of the Income Tax Act, Cap. 73 of the Laws of Barbados (“IT A”) provides that:

“For the purposes of this Act:

- 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,
 - (ii) is ordinarily resident in Barbados in the relevant income year”

Further, **Section 85 (6) of the ITA** provides that:

“For the purposes of subparagraph (ii) of paragraph (a) of 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.”

Therefore, where a person spends in the aggregate more than 182 days in Barbados in an income year, he is deemed to be resident in Barbados for the said income year and is subject to Income Tax on his worldwide income per Section 5 of the ITA.

Change in Residence Status of Individuals

In the first scenario identified above, an individual may be stranded in Barbados because of COVID-19, is unable to leave Barbados, and therefore spends in the aggregate more than 182 days in Barbados. In this instance, the Authority will deem the person not to be resident where the person gives notice in writing to the Revenue Commissioner that he wishes not to be resident in Barbados due to the exceptional circumstances; however, each case will be determined on the facts and circumstances of each person.

For the purposes of this guidance, exceptional circumstances means:

- 1) the individual is quarantined or advised by a health professional or public health guidance to self-isolate in Barbados as a result of the virus;
- 2) the individual is advised by official Government advice not to travel from Barbados as a result of the virus; or

- 3) the individual is unable to leave Barbados as a result of the closure of international borders.

Where an individual satisfies one of three exceptional circumstances identified above, the days spent in Barbados will not be counted in determining whether a person spent in the aggregate more than 182 days. However, the Authority will resume counting the days in the following circumstances:

- 1) the individual is not required to quarantine or was not advised by a health professional or public health guidance to self-isolate in Barbados and is therefore free to leave Barbados when international borders reopen but the person does not leave; or
- 2) the individual is not required to quarantine or was not advised by a health professional or public health guidance to self-isolate in Barbados and therefore is free to leave Barbados via a repatriation flight (as long as a flight is available), but the person does not leave Barbados.

Where an individual satisfies one of the conditions above, the Authority will resume counting the days in determining whether the individual spent in the aggregate more than 182 days in Barbados. If the individual spends in the aggregate more than 182 days in Barbados, the individual will be deemed a resident for the purposes of ITA and subject to income tax in Barbados on his worldwide income.

If as a result of the Authority resuming to count the days spent and an individual is deemed to be resident in Barbados and is also resident in another country, the tie-breaker rule contained in Barbados' Double Taxation Agreements will be applied in the instance that there is such an agreement. The Authority will be guided by the agreement in determining which country has the right to tax the person.

In the second scenario identified above, where an individual is working in Barbados and has acquired residence status in Barbados, but he temporarily returns home to his "previous home country" and because of the COVID-19 pandemic the individual may regain residence status on his return to his "previous home country", or not achieve the aggregate more than 182 days in Barbados, that individual shall be deemed resident in Barbados if he satisfies Section 85 (6) of the ITA.

Where an issue of double residence occurs, the Authority will be guided by the tie-breaker rule contained in Barbados' Double Taxation Agreements.



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