



## **BERMUDA**

### **PUBLIC TREASURY (ADMINISTRATION AND PAYMENTS) (SALARY BASED BENEFIT) REGULATIONS 2022**

#### **BR 106 / 2022**

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The Minister of Finance, in exercise of the power conferred by sections 6 and 33 of the Public Treasury (Administration and Payments) Act 1969, makes the following Regulations:

#### **Citation**

1 These Regulations may be cited as the Public Treasury (Administration and Payments) (Salary Based Benefit) Regulations 2022.

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**Interpretation**

2 In these Regulations—

“Act” means the Public Treasury (Administration and Payments) Act 1969;

“applicant” means an individual who makes an application under these Regulations;

“the benefit” has the meaning given in regulation 3;

“eligible person”, in relation to an individual, means being qualified to apply for a benefit as set out in regulation 4(2);

“employee” has the meaning given in section 4 of the Employment Act 2000 and in these Regulations includes a part-time employee, temporary employee and a self-employed person; and “employed” and “employment” shall be construed accordingly;

“in writing” includes by electronic communication;

“Minister” means the Minister of Finance;

“month” means a calendar month;

“motor taxi owner” has the meaning given in section 9B of the Payroll Tax Act 1995;

“relevant period” means the 12-month period in accordance with regulation 3(4) during which the salary for an employee will be determined pursuant to regulation 3(3)(a);

“taxi driver” has the meaning given in section 9B of the Payroll Tax Act 1995.

**Meaning of “the benefit”**

3 (1) For the purposes of these Regulations, “the benefit” means the sum of money from the Consolidated Fund approved for payment under these Regulations to an individual who is an eligible person.

(2) The benefit is a one-off benefit to be paid to an eligible person who meets the salary requirements.

(3) The benefit payment to a person who was an eligible person as provided in regulation 4(2) shall be a one-off payment—

(a) in the case of a person who was an employee at any time during the relevant period, of—

(i) \$250, where the eligible person’s salary or income is less than \$60,000 per annum;

(ii) \$100, where the eligible person’s salary or income is between \$60,000 and \$95,999 per annum;

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(b) in the case of a person who was a motor taxi owner as at 30 June 2022, of \$100.

(4) The relevant period during which the eligible person can confirm that he was an employee as referred to in paragraph (3)(a), is, at any time during the 12-month period, beginning on 1 July 2021 and ending on 30 June 2022.

**Persons who are qualified to apply for the benefit**

4 (1) An individual who was an employee, or a motor taxi owner during the relevant period is qualified as an eligible person to apply for, and to receive, the benefit if he satisfies the criteria set out in paragraphs (2) and (3) of this regulation.

(2) An individual referred to in paragraph (1) is qualified to apply for the benefit if he—

- (a) meets the requirements of paragraph (3);
- (b) is living in Bermuda on the date these Regulations come into force;
- (c) was 16 years of age or older during the relevant period;
- (d) was—
  - (i) engaged as an employee during the relevant period;
  - (ii) self-employed during the relevant period and registered with the Office of the Tax Commissioner as at 7 July 2022; or
  - (iii) a motor taxi owner who was in possession of a valid licence as at 30 June 2022, pursuant to section 59(3A) of the Motor Car Act 1951 , having paid in full the payroll tax due under section 9B(3) or (4) of the Payroll Tax Act 1995.

(3) The salary or income of an individual qualified to apply for the benefit under paragraph (2) shall, during the relevant period, have been subject to payroll tax.

(4) For the avoidance of doubt—

- (a) an employee of the Government of Bermuda is an eligible person for the purposes of these Regulations only in the case where the employment of such employee with the Government during the relevant period was the principal job of the employee;
- (b) a taxi driver is an eligible person for the purposes of these Regulations only in the case where the taxi driver had, during the relevant period, a principal job, in addition to his employment as a taxi driver, from which he earned a salary as provided in regulation 3(3)(a).

**Eligibility criteria**

5 (1) Eligibility for the benefit shall be assessed on the basis of the eligibility criteria set out in this regulation.

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(2) With consideration being given to the best interests of Bermuda in accordance with these Regulations, the Tax Commissioner, in consultation with the Minister, shall provide the benefit to individuals, and for these purposes the Tax Commissioner may take into account an individual's circumstances and require any information or documents under regulation 6 as he considers necessary.

(3) For the avoidance of doubt, an individual is only eligible to receive the benefit with respect to his principal job.

(4) For the purposes of these Regulations, "principal job" means the employment in respect of which the majority of the individual's salary was derived during the relevant period.

**Procedure for application for the benefit by eligible person**

6 (1) An application made under regulation 7, 8 or 9 for the benefit shall be made in such form as may be determined by the Tax Commissioner, in consultation with the Minister, for the purposes of these Regulations.

(2) The application form for the purposes of regulation 7, 8 or 9 shall be prescribed by the Minister by notice published in the Gazette.

(3) The applicant shall submit with his application—

- (a) all of the information, verification or documentation required by these Regulations and the completed form no later than 15 December 2022; and
- (b) any further information, verification or documentation requested by the Tax Commissioner following the submission made under subparagraph (a), no later than 31 January 2023.

(4) The applicant or his employer shall provide any information, verification or documentation or further information, verification or documentation, as the case may be, that is reasonably required by the Tax Commissioner to support the application.

*[Regulation 6 paragraph (3)(b) amended by BR 1 / 2023 reg. 2 effective 13 January 2023]*

**Application for the benefit by eligible person not employed by Bermuda Government**

7 (1) This regulation applies to an eligible person referred to in regulation 4(2)(d)(i) or (ii) whose principal job is not with the Government of Bermuda and who is not a motor taxi owner.

(2) An application for the benefit by a person referred to in paragraph (1) shall be made in the prescribed form and shall provide the following information—

- (a) for the purposes of regulation 4(2)(d)—
  - (i) documentary proof that he falls within subparagraphs (i) or (ii) of that regulation; or

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- (ii) verification in writing from his employer confirming his employment status during the relevant period, and that his salary falls within those provided in regulation 3(3)(a);
- (b) where applicable, confirmation that he was registered with the Office of the Tax Commissioner during the relevant period;
- (c) his social insurance number;
- (d) a copy of his photographic identification which includes a valid driver's licence, passport or other valid Government-issued identification.

(3) For purposes of regulation 4(4)(b), an applicant referred to in paragraph (1) who, during the relevant period, was a taxi driver shall provide proof that he had a principal job, in addition to his employment as a taxi driver, during that period.

**Application for the benefit by eligible person employed by Bermuda Government**

8 An application for the benefit made by a person employed by the Government of Bermuda shall be made in the prescribed form and shall provide the following information—

- (a) for the purposes of regulation 4(2)(d)—
  - (i) documentary proof that he falls within subparagraph (i) of that regulation; or
  - (ii) verification in writing from his employer confirming his employment status during the relevant period, and that his salary falls within those provided in regulation 3(3)(a);
- (b) for the purposes of regulation 4(4)(a) documentary proof that his employment with the Government of Bermuda was, during the relevant period, his principal job;
- (c) his social insurance number;
- (d) a copy of his photographic identification which includes a valid driver's licence, passport or other valid Government-issued identification.

**Application by eligible person who is motor taxi owner**

9 (1) An application for the benefit made by a motor taxi owner shall be made in the prescribed form and shall provide the following information—

- (a) for the purposes of regulation 4(2)(d)—
  - (i) documentary proof that he falls within subparagraph (iii) of that regulation; or
  - (ii) verification in writing confirming his payment of the flat rate payroll tax as at 30 June 2022;
- (b) his social insurance number;

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(c) a copy of his photographic identification which includes a valid driver's licence, passport or other valid Government-issued identification;

(d) proof of his ownership of the taxi.

(2) A motor taxi owner who owns more than one taxi shall receive the benefit only with respect to one taxi.

**Decision of Tax Commissioner**

10 (1) The Tax Commissioner shall consider completed applications, and make a decision whether to approve or refuse to approve the application.

(2) The Tax Commissioner shall not approve an application for the benefit unless he is satisfied, based on the information that is provided, that the applicant fulfils the qualifications and eligibility criteria for such benefit.

(3) Where the Tax Commissioner approves any application, he shall inform the Minister in writing and in such form as the Tax Commissioner may, in consultation with the Minister, determine, of the approval of the benefit, the amount and any other relevant matter.

(4) The Tax Commissioner shall also notify the applicant of his decision and, if the application is refused, give the reasons for the refusal and advise the applicant of his right to appeal the decision.

(5) Where the Tax Commissioner approves an application, he shall inform the applicant in writing of the approval of the benefit, the amount of the benefit and any other relevant matter.

(6) Pursuant to such notification from the Tax Commissioner, and subject to section 6(1) of the Act, the Minister shall notify the Accountant General—

(a) of the sum of the benefit; and

(b) to pay the benefit directly to the applicant,

and request the relevant information so notified is processed for payment.

**Investigation; review of the benefit**

11 (1) The Tax Commissioner may—

(a) investigate and verify any statements made in an application; or

(b) investigate and examine the circumstances of an applicant or a recipient in relation to his eligibility for the benefit.

(2) The Tax Commissioner may, on new facts being brought to his notice, or if he is satisfied that the decision was based on a misrepresentation as to some material fact, review any decision given by him in relation to a person's benefit and upon review may cancel a person's benefit.

(3) Before he makes a decision under paragraph (2), the Tax Commissioner shall first give the recipient an opportunity to make representations.

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(4) The Tax Commissioner, with the approval of the Minister, may require a recipient to repay any sum of money improperly paid under a benefit (“overpayment”) as a result of non-disclosure of facts, misrepresentation or for any other cause.

(5) The Tax Commissioner may, with the approval of the Minister, waive the overpayment or may require the recipient to pay a reduced amount if he is satisfied that a recipient has exercised due care and diligence to avoid the overpayment.

(6) Where any sum is required to be repaid by a recipient under this regulation, the Minister may recover such sum as a debt owing to the Government in any court of competent jurisdiction.

(7) For the purposes of this regulation, a recipient, or the employer, where applicable, shall provide to the Tax Commissioner at such time as may be determined by the Tax Commissioner, a letter confirming the recipient’s employment status at the date thereof.

**Offences**

12 (1) Any person who for the purposes of the Act and these Regulations knowingly makes any false statement or knowingly provides any false information commits an offence.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine of \$1,500 or imprisonment for six months or to both such fine or term of imprisonment.

**Appeals to Minister**

13 (1) An applicant for the benefit who is aggrieved by a decision of the Tax Commissioner not to grant the benefit under regulation 10 may within 21 days from the date of such refusal or cancellation or such period as the Minister may allow, appeal in writing to the Minister.

(2) After considering an appeal under paragraph (1), the Minister may if he thinks fit, vary the decision of the Tax Commissioner and such variation shall take effect on such date as the Minister may determine.

(3) For the purposes of an appeal under paragraph (1), the Minister shall, at the time of giving his decision, or not later than 10 working days after the date on which he makes a decision, give reasons, in writing, for the decision.

(4) The Minister may give his decision as soon as possible after considering the appeal but not later than 15 working days after receipt of the notice of appeal.

(5) When a recipient gives notice of appeal to the Minister, the Minister may suspend the implementation of the decision of the Tax Commissioner, pending the outcome of the appeal.

**Tax Commissioner to keep records**

14 For the purposes of these Regulations, the Tax Commissioner shall keep a copy of each application with the following information relating to it—

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- (a) whether it was approved or refused;
- (b) the amount (if any) permitted to be given to the applicant; and
- (c) the reasons given if the application was refused,

and the Tax Commissioner shall keep copies of documentation submitted in support of an application.

Made this 18th day of October 2022

Premier and Minister of Finance

[Operative Date: 19 October 2022]

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*[Amended by:*

BR 1 / 2023]