

ACT
amending the Income Tax Act, the Act on a Special Tax on Financial Undertakings, the Act on Financial Undertakings and the Act on a Stability Levy (regarding compositions of the estates of failed financial undertakings)

CHAPTER I

Amendment to the Income Tax Act, No. 90/2003, as subsequently amended

Art. 1

Following the fourth sentence of Point 8 of the first paragraph of Art. 3 of the Act a new sentence shall be added, which shall read as follows: In addition, this provision shall not apply to interest paid on notes issued in connection with the fulfilment of a composition and in their own name by legal entities which previously operated as commercial banks or savings banks and are in winding-up proceedings as provided for in Art. 101 of the Act on Financial Undertakings, No. 161/2002, or have concluded winding-up proceedings with a composition which has been confirmed by the courts.

Art. 2

The following amendments shall be made to Temporary Provision LVI of the Act:

- a. The initial sentence shall be worded as follows: In the assessment of public levies in 2016 and 2017 with reference to income in 2015 and 2016.
- b. Subparagraph a shall be worded as follows: waiver of debts as part of a party's composition, cf. Art. 103 a of Act No. 161/2002, on Financial Undertakings, shall be included in the debtor's taxable income until operating losses on the year and losses carried forward from previous years have been offset; any debt waiver exceeding losses shall be disregarded. This applies equally whether or not the debtor issues share capital for payment towards debts. The outcome for the year shall be arrived at in the customary manner in tax returns before recognition is made of debts waived. Any operating profit shall be set off against losses carried forward from previous years before such a loss is set off against income recognised from waiving of debt. Should a debtor make payment towards a debt by issuing new share capital to a creditor in such circumstances the waiver of the debtor's debt is calculated as the difference between the nominal value of that portion of the debt which is used to pay for the share capital and the real value of the share capital received in return, based on the book value of the debtor's equity taking into consideration the waiving of debts and the issuance of the new share capital. A creditor may, cf. Point 3 of Art. 31, recognise the waiving of debts in full or in part as a deduction from its income from operations in the year the debts are waived. To the extent that a creditor does not recognise waiving of debt as a deduction from income from operations, or cannot take advantage of such a deduction, the amount of the debt waived is recognised as the initial cost of the new shares held by the creditor.

CHAPTER II

Amendment to the Act on a Special Tax on Financial Undertakings, No. 155/2010, as subsequently amended

Art. 3

To the second paragraph of Art. 2 of the Act a new subparagraph shall be added which shall read as follows: legal entities which previously operated as commercial banks or savings banks, cf. Art. 4 of the Act on Financial Undertakings, No. 161/2002, which have obtained approval for a composition proposal at a meeting convened on the basis of the second sentence of the third paragraph of Art. 103 a of Act No. 161/2002, on Financial Undertakings, and have submitted a written petition for confirmation of the composition to a District Court, as provided for in Chapter IX of Act No. 21/1991, on Bankruptcy etc.

CHAPTER III

Amendment to the Act on Financial Undertakings, No. 161/2002, as subsequently amended

Art. 4

The following changes shall be made to Art. 103 a of the Act:

- a. Following the words “new shares” in the sixth sentence of the third paragraph shall be added: or guarantee capital
- b. Following the seventh sentence of the third paragraph, a new sentence shall be added, which shall read as follows: The same shall apply *mutatis mutandis* to a financial undertaking in winding-up proceedings which previously operated as a savings bank in the form of a self-governing foundation.
- c. The eighth sentence of the third paragraph shall be worded as follows: If the authorisations in the sixth to eighth sentences, to issue new shares or guarantee capital in the financial undertaking in winding-up proceedings which is to be paid for with a set-off against a specific portion of a claim as approved in the winding-up proceedings as part of fulfilment of a composition, is availed of the fourth paragraph of Art. 101, on the work of the Winding-up Board, will apply until a shareholders' meeting or meeting of guarantee capital owners has been held in the company and a new Board of Directors elected for the company.
- d. Following the ninth sentence of the third paragraph three new sentences shall be added, which shall read as follows: The Winding-up Board may propose at a creditors' meeting that only those creditors included in the list of claims on the date that the composition proposal is submitted, or at a later point in time and up to the time that voting takes place on the composition proposal, shall be authorised to vote on the composition proposal. If a claim on the estate changes ownership after the point in time used as a reference, the new creditor shall, however, be authorised to vote on the composition proposal if it notifies the Winding-up Board of the change of creditor and provides documentation to verify the transfer of the claim. The same shall apply *mutatis mutandis* concerning the right to receive payment pursuant to a composition proposal after the proposal has been confirmed.
- e. The eleventh sentence of the fifth paragraph shall be replaced by the following two new sentences: Winding-up proceedings as provided for in this paragraph are considered to be completed when a composition has been confirmed, unless the first paragraph applies. The contents of a composition shall apply concerning the fulfilment of obligations to creditors.
- f. The twelfth sentence of the third paragraph shall be worded as follows: A composition proposal of a financial undertaking is considered to be approved if it

receives the same proportion of votes, weighted with the claims amounts of voters participating in the voting, as the proportional waiver of contractual claims proposed under the proposal; however, with a minimum of 60% and a maximum of 85% of these votes.

- g. The fifteenth sentence of the third paragraph shall be moved so that it precedes the thirteenth sentence.
- h. Two new sentences shall be added to the sixth paragraph, which shall read as follows: If, due to its nature, a composition payment cannot be deposited to an escrow account and/or a custody account the Winding-up Board may take other measures to ensure that a creditor receives composition payments once a dispute has been resolved or when a creditor is able to receive the composition payment. An account shall be given of such measures in the composition proposal and, once the measures have been taken, the composition payment is considered to have been made to the creditor concerned.

CHAPTER IV

Amendment to the Act on a Stability Levy, No. 60/2015

Art. 5

A new Temporary Provision shall be added to the Act, which shall read as follows:

Notwithstanding the provisions of Art. 2, parties which previously operated as commercial banks or savings banks, cf. Art. 4 of Act No. 161/2002, on Financial Undertakings, but are currently in winding-up proceedings as provided for in Art. 101 of the same Act, shall not be included in taxable entities as referred to in this Act if they have concluded winding-up proceedings with a confirmed composition prior to 15 March 2016.

The same time limit shall apply for determining the tax liability of those parties to whom the second sentence of Art. 2 of this Act applies

The extended time limit for concluding winding-up proceedings provided for in the first paragraph is conditional upon those parties covered by the provision having obtained approval of composition proposal at a meeting convened on the basis of the second sentence of the third paragraph of Art. 103 a of Act No. 161/2002, on Financial Undertakings, and having submitted a written petition for confirmation of the composition to a District Court, as provided for in Chapter IX of Act No. 21/1991 on Bankruptcy etc., prior to 31 December 2015.

Determination of the tax base as referred to in this provision shall be based on the total assets of the taxable entity as of 31 December 2015. Regarding deductions from the stability levy the provisions of Art. 5 shall apply.

Art. 6

This Act shall enter into force at once and take effect as follows:

- a. Art. 1 shall take effect with regard to withholding tax following the publication of this Act and in assessment of public levies in 2016.
- b. Art. 3 shall take effect in assessment of public levies in 2016.
- c. Art. 4 shall apply to financial undertakings in winding-up proceedings which have not held a meeting to vote on a composition proposal as referred to in the second sentence of the third paragraph of Art. 103 a of Act No. 161/2002, on Financial Undertakings.

Adopted by Althingi on 4 November 2015.