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NOTICE 2018-002

Virgin Islands Economic Development Commission

TO: Beneficiaries of the Virgin Islands Economic Development Program
Attorneys/Advisors of Beneficiaries

FROM: Wayne L. Biggs, Jr. 
Acting Chief Executive Officer

DATE: May 24, 2018

SUBJECT: V.I. CODE ANN. tit. 29, §§ 713d(c)(2)(E) and (F) – Capital Contributions in Excess of \$1 Million

As it pertains the commercial loans or capital contributions in excess of One Million Dollars (\$1,000,000.00) to U.S. Virgin Islands business entities or entities located in the U.S. Virgin Islands, the applicable law states in relevant part as follows:

(2) The percentage of exemption of 80% shall apply with respect to the tax on dividends and dividend equivalent amounts paid by an applicant granted an economic development certificate who, at any time from the beginning of each taxable year that the certificate is in effect, but not later than ninety (90) days after the date of filing of the corresponding income tax return for such taxable year, places, invests, and maintains, for a fixed term of not less than (5) years, not less than fifty percent (50%) of its net income derived from the business or industry for which an economic development certificate has been granted for such year after the payment of the taxes provided by law, in the payment of . . . any of the following:

....

(E) commercial loans in excess of one million dollars made to Virgin Islands borrowers or borrowers in the Virgin Islands that (i) have been rejected by, or not approved within 30 days from the date a written loan application has been made to, any licensed Virgin Islands financial institution; and (ii) bear interest at an interest rate of not less than five percentage points above the Federal Home Loan Mortgage Corporation's posted yield on the last business day of the month on thirty-year standard conventional fixed-rate mortgages committed for delivery within sixty days, rounded to the nearest one-fourth percent, which rate shall take effect (a) on the



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first day of the immediately subsequent month and continue in effect for the remainder of said month, and (b) apply to all commitments made by a beneficiary during such month. If for any reason, the Federal Home Loan Mortgage Corporation ceases its auction, temporarily or permanently, the index in the preceding sentence shall be based on the Federal Home Loan Bank Board's average monthly contract rate. All existing and future beneficiaries are permitted to make such loans without modification of their certificates;

(F) capital contributions in excess of one million dollars made to Virgin Islands business entities or business entities in the Virgin Islands. All existing and future beneficiaries are permitted to make such capital contributions without modification of their certificates.

29 V.I.C. §§ 713d(c)(2)(E) and (F). To be considered for the **exemption and partial exemption of tax on interest and dividends**, a beneficiary that has made such commercial loan ("loan") or capital contribution ("investment") in excess of \$1 Million must submit the following required documents to the Chief Executive Officer.

1. A notification letter to VIEDC from the Beneficiary, its legal counsel or representative providing the date of the loan or investment and an overview of the transaction within 30 days after it was made;
2. Copies of the executed/recorded loan or investment documents, as applicable;
3. Proof that the business that received the investment is a USVI business or a business entity in the USVI;
4. Proof that the business that received the loan was rejected by, or was not approved within 30 days from the date a complete written loan application was made to, any licensed Virgin Islands financial institution;
5. Verification of compliance with 9 V.I.C. § 183 regarding the amount of the loan and maximum charges;
6. A sworn statement that as a company wishing to make loans pursuant to 29 V.I.C. §§ 713d(c)(2)(E) and (F), it shall register with and provide quarterly reports to the Office of the Lieutenant Governor; and
7. Any other documents deemed necessary by VIEDC to ensure compliance with applicable law.

Beneficiaries will be notified by VIEDC when the documents have been forwarded to the Virgin Islands Bureau of Internal Revenue ("VIBIR") for further action. Notification letters that are not accompanied by the required documentation will not be forwarded to the VIBIR. Upon notification from VIEDC that beneficiary's letter of notification fails to provide the requisite information, beneficiary shall have 30





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days to cure the deficiency. Failure to satisfy the requirements set forth herein within the stated period shall make the notification ineligible for further consideration or action by VIEDC.

Should you have any questions regarding this matter, you may contact Claude S.M. Gerard, Director of Compliance at 340.773.6499 or csmgerard@usvieda.org.

cc: VIEDC Governing Board
Tracy Lynch Bhola, Esq., General Counsel
Claude S.M. Gerard, Director of Compliance
Margarita Benjamin, Director of Applications

