

No. 28 of 2000.

Income Tax (Amendment) Act 2000

Certified on: 19 JAN 2001

INDEPENDENT STATE OF PAPUA NEW GUINEA

No. 28 of 2000

AN ACT

entitled

Income Tax (Amendment) Act 2000,

Being an Act to amend the *Income Tax Act 1959*,

MADE by the National Parliament to be deemed to have come into operation on 1 January 2000.

1. INTERPRETATION (AMENDMENT OF SECTION 4).

Section 4 of the Principal Act is amended by inserting after the definition of "income tax" the following new definition:-

"'joint venture' means an enterprise carried on by two or more persons in common otherwise than as a partnership;"

2. EXEMPTION OF PUBLIC AUTHORITIES, ETC (AMENDMENT OF SECTION 24).

Section 24(2) of the Principal Act is repealed and is replaced with the following:-

"(2) All income of a Provincial Government or of a Local-level Government received pursuant to the *Organic Law on Provincial Governments and Local-level Governments*, is exempt from income tax, except income received from a commercial enterprise conducted by a Provincial Government or a Local-level Government."

3. EXEMPTION OF CERTAIN INTEREST INCOME (AMENDMENT OF SECTION 35).

Section 35 of the Principal Act is amended-

(a) in Subsection (1), by repealing the definition of

"financial institution" and replacing it with the following:-

"financial institution" means the Bank of Papua New Guinea and a bank or financial institution licensed under the *Banks and Financial Institutions Act 2000*;" ; and

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(b) in Subsection (2), by repealing Paragraph (e) and replacing it with the following:-

“(e) interest derived by a non- resident lender from a company engaged in mining, petroleum or gas operations in Papua New Guinea, to the extent such interest is payable under a financial arrangement approved by the Bank of Papua New Guinea.”.

4. INTERPRETATION (AMENDMENT OF SECTION 144).

Section 144 of the Principal Act is amended by repealing the definition of “private company” and replacing it with the following:-

“‘private company’ means a private company in relation to a year of income where-

(a) at any time during the year of income, one person or persons not more than 20 in number held, or had the right to acquire or become the holder or holders of, shares representing not less than 50% of the paid up capital of the company, other than capital represented by shares entitled to a fixed rate of dividend only; or

(b) at any time during the year of income, not less than 50% of the voting power in the company was capable of being exercised by one person or by persons not more than 20 in number; or

(c) not less than 50% of-

(i) the amount of any dividend paid by the company during the year of income; or

(ii) where more than one dividend was paid by the company during the year of income, the total amount of all the dividends paid by the persons not more than 20 in number; or

(iii) a dividend was not paid by the company during the year of income but the Commissioner General is of the opinion that, if a dividend had been paid by the company at any time during the year of income, not less than 50%, of the amount of that dividend would have been paid to one person or to persons not more than 20 in number,

but does not include a company which is controlled by another company which does not satisfy any of the foregoing conditions;”.

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5. RATE OF TAX ON INTEREST IN CERTAIN CASES (AMENDMENT OF SECTION 163U).

Section 163(U) of the Principal Act is amended by inserting after Subsection (2) the following new Subsection:-

“(2A) Notwithstanding Schedule 4.1 of the *Income Tax, Dividend (Withholding) Tax and Interest (Withholding) Tax Rates Act* (Chapter 111) where an entity carrying on business in Papua New Guinea derives interest income from another taxpayer carrying on mining operations or exploration who, in the opinion of the Commissioner General, is an associate, the rate of tax applicable to this income is the rate of tax applicable to assessable income from mining operations, in accordance with Schedule 4.4 (b) or (c), as the case may be, of the *Income Tax, Dividend (Withholding) Tax and Interest (Withholding) Tax Rates Act* (Chapter 111).”.

6. RATE OF TAX ON INTEREST IN CERTAIN CASES (AMENDMENT OF SECTION 164N).

Section 164(N) of the Principal Act is amended by inserting after Subsection (2) a new Subsection in the following:-

“(2A) Notwithstanding Schedule 4.1 of the *Income Tax, Dividend (Withholding) Tax and Interest (Withholding) Tax Rates Act*, (Chapter 111) where an entity carrying on business in Papua New Guinea derives interest income from another taxpayer carrying out a petroleum project who, in the opinion of the Commissioner General, is an associate, the rate of tax applicable to assessable income from petroleum operations, in accordance with Schedule 4.4 (a) of the *Income Tax, Dividend (Withholding) Tax and Interest (Withholding) Tax Rates Act* (Chapter 111).”.

7. RATE OF TAX ON INTEREST IN CERTAIN CASES (AMENDMENT OF SECTION 165N).

Section 165(N) of the Principal Act is amended by inserting after Subsection (2) a new Subsection in the following:-

“(2A) Notwithstanding Schedule 4.1 of the *Income Tax, Dividend (Withholding) Tax and Interest (Withholding) Tax Rates Act* (Chapter 111) where an entity carrying on business in Papua New Guinea derives interest income from another taxpayer carrying out a designated gas project who, in the opinion of the Commissioner General, is an associate, the rate of tax applicable to this income is the rate of tax applicable to assessable income from gas operations, in accordance with Schedule 4.4 (d) of the *Income Tax, Dividend (Withholding) Tax and Interest (Withholding) Tax Rates Act* (Chapter 111).”.

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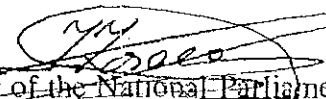
I hereby certify that the above is a fair print of the *Income Tax (Amendment) Act 2000* which has been made by the National Parliament.



Acting Clerk of the National Parliament.

19 JAN 2001

I hereby certify that the *Income Tax (Amendment) Act 2000* was made by the National Parliament on 11 October 2000.



Acting Speaker of the National Parliament.

19 JAN 2001