

No. 10 of 1998.

*Income Tax (Amendment No. 2) Act 1998.*

Certified on : 28.04.98



INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1998.

*Income Tax (Amendment No. 2) Act 1998.*

ARRANGEMENT OF SECTIONS.

1. Interpretation (Amendment of Section 4).
2. New Section 22A.

**"22A. EXEMPTION OF INSTITUTIONS."**

3. New Section 23.

**"23. EXEMPTION OF THE DISCIPLINED FORCES INSTITUTIONAL HOUSING PROJECT."**

4. Exemption of certain interest income (Amendment of Section 35).
5. New Division 1E.

*"Division 1E. - Lihir Incentive.*

**"46BA. - INTERPRETATION."**

**"46BB. - TAX EXEMPTION PERIOD."**

**"46BC. - LOSSES INCURRED DURING THE EXEMPTION PERIOD."**

**"46BD. - GAMING IMPROPER ADVANCE, ETC.,"**

6. New Section 69I.

**"69I. - DOUBLE DEDUCTION FOR GIFTS TO NATIONAL DAY CELEBRATIONS."**

7. New Section 69J.

**"69J. - DONATIONS TO PNG SPORTS COMMISSION OLYMPIC 2000 PROJECT."**

8. Depreciation (Amendment of Section 73).

9. Accelerated deductions (Amendment of Section 164M).
10. Interpretation (Amendment of Section 164V).
11. Liability to dividend (withholding) tax (Amendment of Section 189B(2)(d)).

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1998.

AN ACT

entitled

*Income Tax (Amendment No. 2) Act 1998,*

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

MADE by the National Parliament to come into -

- (a) in respect of Section 3, to be deemed to have come into operation on 15 December 1993; and
- (b) in respect of Section 5, to be deemed to have come into operation on 26 April 1995; and
- (c) in respect of Section 9, to be deemed to have come into operation on 1 January 1995; and
- (d) in respect of the remainder of the Act, to be deemed to have come into operation on 1 January 1998.

**1. INTERPRETATION (AMENDMENT OF SECTION 4).**

Section 4(1) of the Principal Act is amended by inserting before the definition of "fortnight" the following:-

- “‘frontier area petroleum development licence’ means a petroleum development licence granted out of the area of a petroleum prospecting licence or petroleum retention licence which petroleum prospecting licence or petroleum retention licence had, at the time of the application for the petroleum development licence, a condition to the effect that petroleum prospects developed in the area the subject of the petroleum development licence application would be granted frontier area petroleum fiscal terms;
- ‘frontier area petroleum project’ means a petroleum project comprising only petroleum operations conducted pursuant to one or non frontier area petroleum development licences and associated pipeline licences.”.

**2. NEW SECTION 22A.**

The Principal Act is amended by inserting after Section 22 the following new section:-

**“22A. EXEMPTION OF INSTITUTIONS.**

The income of -

- (a) Kula Fund Limited, a company incorporated in Vanuatu; and

*Income Tax (Amendment No.2)*

(b) Pacific Capital Partners (PNG) Pty Ltd, a company incorporated under the *Companies Act*, shall be exempt from income tax.”.

**3. NEW SECTION 23.**

The Principal Act is amended by inserting after Section 22A the following new section:-

**“23. EXEMPTION OF THE DISCIPLINED FORCES INSTITUTIONAL HOUSING PROJECT.**

The income derived by Syarikat Pembinaan Yeoh Tiong Lay Sdn Bhd and its non-citizen staff in the course of and arising out of, the construction of the Disciplined Forces Institutional Housing Project shall be exempt from any taxes imposed under this Act, to the extent the Commissioner General is satisfied that the State has agreed that such income shall be exempted in the Articles of Agreement signed by the representatives of Syarikat Pembinaan Yeoh Tiong Lay Sdn Bhd and the Independent State of Papua New Guinea on 15 December 1993.”.

**4. EXEMPTION OF CERTAIN INTEREST INCOME (AMENDMENT OF SECTION 35).**

Section 35(2) of the Principal Act is amended by adding the following new Paragraph:-

“(d) interest derived by the New Ireland Trust Fund from Mineral Resources Development Corporation Pty Limited pursuant to a European Investment Bank Loan Agreement dated 28 December 1995.”.

**5. NEW DIVISION 1E.**

Part III of the Principal Act is amended by inserting after Division 1D the following new Division:-

*“Division 1E - Lihir Incentive.*

**“46BA. INTERPRETATION.**

In this Division, unless the contrary intention appears -

‘business enterprise’ means a business carried on by a Lihirian corporation, which in the opinion of the Commissioner General is -

- (a) based on and operates in the Lihir District; and
- (b) derives its primary income from doing business related to the mining operation on Lihir; and
- (c) commenced after 17 March 1995;

‘Lihirian’ means a citizen who belong to the Lihir District and has matrilineal rights;

*Income Tax (Amendment No. 2)*

'Lihirian Corporation' means -

- (a) a business group registered under the *Business Groups Incorporation Act* (Chapter 144); or
- (b) an incorporated land group recognised under the *Land Groups Act* (Chapter 147); or
- (c) a corporation incorporated under the *Companies Act*, and which was registered or incorporated after 17 March 1995 and is 100% Lihirian;

'Lihir District' means the administrative district defined by the New Ireland Provincial Authority.”.

**“46BB. TAX EXEMPTION PERIOD.**

The income derived during the period 26 April 1995 to 26 April 2000 by a business enterprise is exempt from tax.

**“46BC. LOSSES INCURRED DURING THE EXEMPTION PERIOD.**

Where in any year, the allowable deductions exceeded assessable income so that the income referred to in Section 46BB is a loss shall be deemed to be a loss incurred in deriving assessable income and shall be deductible in accordance with the provisions of Section 101 or 101A as appropriate.

**“46BD. GAMING IMPROPER ADVANCE, ETC.,**

(1) A taxpayer, or where the taxpayer is a company, the company or a public officer or a director, servant or agent of the company, who or which, by an act, default or neglect, or by any fraud or contrivance whatever, gains or attempts to gain an improper advantage or an exemption to which he or it or his company would not lawfully be entitled under this Division, is guilty of an offence.

Penalty: A fine of not less than K500.00 and not exceeding K10,000.00.

“(2) In addition to any fine imposed under Subsection (1), the Court before which the action is brought may order the person or company, as the case may be, to pay to the Commissioner General a sum not exceeding double the amount of tax that, in the opinion of the Court, was avoided or attempted to be avoided.

“(3) Without derogating the provisions of any other law, where the court is satisfied that the commission of an offence against this section was counselled or assisted in any way by another person (where in a professional or other capacity) the court may order that person to be liable, or jointly and severally liable with any other person, for payment of the additional tax under Subsection (2).”.

*Income Tax (Amendment No. 2)*

**6. NEW SECTION 69I.**

The Principal Act is amended by inserting after Section 69H the following new sections:-

**“69I. DOUBLE DEDUCTION FOR GIFTS TO NATIONAL DAY CELEBRATIONS.**

(1) An amount by way of gift (the value which is equal to or exceeds K5000.00) of money or property (other than money) purchased by the company in the 12 months immediately preceding the making of the gift, made by the company to the National Events Council in respect of promotion of National Day celebrations shall be an eligible amount.

“(2) An amount equal to twice the eligible amount shall be an allowable deduction under this section.

“(3) Where an eligible amount (or part thereof) allowed under this section is recouped or recoupable, an amount shall be included in assessable income to the extent that a deduction has been allowed.

“(4) This section shall apply to gifts made in the period 1 January 1997 to 31 December 2000.”.

**7. NEW SECTION 69J.**

The Principal Act is amended by inserting after Section 69I the following new section:-

**“69J. DONATIONS TO PNG SPORTS COMMISSION OLYMPIC 2000 PROJECT.**

(1) An amount by way of gift (the value which is equal to or exceeds K5000.00) of money, or property (other than money) purchased by a company in the 12 months immediately preceding the making of the gift, made by the company to the Papua New Guinea Sports Commission in respect of the PNG Sports Foundation 2000, shall be an eligible amount.

“(2) An amount equal to twice the eligible amount shall be an allowable deduction under this section.

“(3) Where an eligible amount (or part thereof) allowed under this section is recouped or recoupable, an amount shall be included in assessable income to the extent that a deduction has been allowed.

“(4) This section shall apply to gifts made in the period 1 January 1997 to 31 December 2000.”.



*Income Tax (Amendment No. 2)*

**8. DEPRECIATION (AMENDMENT OF SECTION 73).**

Section 73(9)(b) is repealed and replaced with the following:-

- “(b)(i) property, being plant or articles used solely for the purpose of fishing by residents engaged in fishing on a commercial basis and ancillary equipment fitted to those boats or ships;
- (ii) notwithstanding anything in the Act, for the purposes of Subparagraph (i), property includes used property when first imported for use in PNG.”.

**9. ACCELERATED DEDUCTIONS (AMENDMENT OF SECTION 164M).**

Section 164(m)(1)(b) of the Principal Act is amended by inserting after the words “in relation to the petroleum project” the following:-

“and Section 164F.”.

**10. INTERPRETATION (AMENDMENT OF SECTION 164V).**

Section 164 of the Principal Act is amended by repealing the definition of “accumulation rate” and replacing it with the following:-

“‘accumulation rate’ means -

- (a) in relation to a frontier area petroleum project the rate of 20% per annum; and
- (b) in relation to any other petroleum project, the rate of 27% per annum.”.

**11. LIABILITY TO DIVIDEND (WITHHOLDING) TAX (AMENDMENT OF SECTION 189B(2)(d)).**

Section 189B(2)(d) of the Principal Act is amended by inserting after the word “section” the following:-

“22A or”.

I hereby certify that the above is a fair print of the *Income Tax (Amendment No. 2) Act 1998* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Income Tax (Amendment No. 2) Act 1998* was made by the National Parliament on 17 March 1998.

Speaker of the National Parliament.

