



No. 45 of 1993.

Income Tax (Budget Provisions) Act 1993.

Certified on: 29.12.93

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

Income Tax (Budget Provisions) Act 1993.

ARRANGEMENT OF SECTIONS.

1. Capital amount of allowance, etc., deemed salary or wages (Amendment of Section 46B).
2. Certain items of assessable income (Amendment of Section 47).
3. Income Applicable (Amendment of Section 65E).
4. Non-application of this Division (Amendment of Section 66A).
5. Repeal and replacement of Section 69A.

"69A. DEDUCTIONS FOR GIFTS TO SPORTING BODIES."
6. Repeal and replacement of Section 69E.

"69E. DEDUCTIONS FOR GIFTS TO CHARITABLE BODIES."
7. New Section 70A.

"70A. DEDUCTION FOR EDUCATION EXPENSES."
8. Losses of previous years (Amendment of Section 101).
9. Distribution shortfall by a unit trust (Amendment of Section 136B).
10. Residual exploration expenditure (Amendment of Section 163AI).
11. New Section 163AY.

"163AY. ALLOWABLE EXPLORATION EXPENDITURE."
12. Residual exploration expenditure (Amendment of Section 163G).
13. New Section 163XA.

"163XA. ALLOWABLE EXPLORATION EXPENDITURE."
14. Residual exploration expenditure (Amendment of Section 164F).
15. New Section 164U.

"164U. ALLOWABLE EXPLORATION EXPENDITURE."
16. New Section 196GA.

"196GA. NON-APPLICATION OF THIS DIVISION."

17. Interpretation (Amendment of Section 196Y).
18. Rebate of salary or wages tax (Amendment of Section 214).
19. New Section 214B.

"214B. REBATE OF EDUCATION EXPENSES."

20. Application (Amendment of Section 276A).
21. Deduction by employer from salary or wages (Amendment of Section 299D).
22. Offences (Amendment of Section 354T).
23. Release of taxpayers in cases of hardship (Amendment of Section 367).

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

AN ACT

entitled

Income Tax (Budget Provisions) Act 1993,

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

MADE by the National Parliament -

- (a) in respect of Sections 1, 9, 13 and 20 - to be deemed to have come into operation on 16 November 1993; and
- (b) in respect of Sections 2, 3, 4, 5, 6, 7, 8, 14, 15, 16, 17, 18 and 19 - to come into operation on 1 January 1994; and
- (c) in respect of Sections 10, 11 and 12 - to come into operation on 1 January 1995.

1. CAPITAL AMOUNT OF ALLOWANCE, ETC., DEEMED SALARY OR WAGES
(AMENDMENT OF SECTION 46B).

Section 46B of the Principal Act is amended -

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

"(b) payments in respect of long service leave accrued before 1 January 1993 at a rate not exceeding six months per 15 years of service with an employer or an associated person of that employer where the employee had completed a minimum of six years' continuous service;" and

- (ii) by repealing Paragraph (d); and
- (b) by repealing Subsection (2A) and replacing it with the following:-

"(2A) Income referred to in Subsection (1) (except where it relates to income covered by Subsection (2)) to the extent that it is a distribution from a superannuation fund being a prescribed sum and the distribution is made in respect of contributions made on behalf of that employee for not less than 15 years, or where the Commissioner General is satisfied that the contributions have been made in respect of the employee for at least seven years, and that employee is not less than 50

Income Tax (Budget Provisions)

years of age, or the employee is subject to enforced early retirement, shall be deemed to be salary or wages income taxable at the rate declared by Section 1 of the *Income Tax (Salary or Wages Tax) (Rates) Act 1979.*"; and

(c) in Subsection (3), by repealing the word and figure "Subsection (2)" and replacing it with the following:-

"Subsections (2) and (2A)".

2. CERTAIN ITEMS OF ASSESSABLE INCOME (AMENDMENT OF SECTION 47).

Section 47(1)(d) of the Principal Act is amended by inserting between the words "compensations" and "bonuses" the following:-

"benefits,".

3. INCOME APPLICABLE (AMENDMENT OF SECTION 65E).

Section 65E of the Principal Act is amended -

(a) by repealing Subsection (1)(d) and replacing it with the following:-

"(d) in relation to accommodation which is not owned by the employer and which is provided in Papua New Guinea for use by the employee free of charge, the amount by which the payment in respect of the use of that accommodation exceeds the prescribed amount;" and

(b) by adding the following new subsection:-

"(2) Salary or wages paid or payable by a foreign contractor in respect of an employment exercised in Papua New Guinea shall be deemed to be derived from a source in Papua New Guinea and for the purpose of this subsection, "foreign contractor" has the same meaning as in Part III.14A."

4. NON-APPLICATION OF THIS DIVISION (AMENDMENT OF SECTION 66A).

Section 66A of the Principal Act is amended -

(a) in Subsection (1), by repealing the word and figures "Section 214" and replacing them with the following:-

"Sections 214 and 214B."; and

(b) in Subsection (2), by repealing the words, figures and letters "Section 68AA, 69, 69B, 69C, 69D, 96 or Section 97A" (twice occurring) and replacing them in each case with the following:-

"Section 68AA, 69, 69A, 69B, 69C, 69D, 69E, 96 or 97A".

5. REPEAL AND REPLACEMENT OF SECTION 69A.

Section 69A of the Principal Act is repealed and is replaced with the following:-

"69A. DEDUCTIONS FOR GIFTS TO SPORTING BODIES.

(1) Subject to Subsection (2), a gift of money or property other than money, made by the taxpayer to a sporting body established in Papua New Guinea for the encouragement or promotion of an athletic game or athletic sport in which human beings are the sole participants, shall be an allowable deduction.

Income Tax (Budget Provisions)

- "(2) Subsection (1) applies -
(a) to a gift whose value exceeds K50.00; and
(b) in the case of a gift of property other than money, where the property was acquired by the taxpayer in the 12 months immediately preceding the making of the gift."

6. REPEAL AND REPLACEMENT OF SECTION 69E.

Section 69E of the Principal Act is repealed and is replaced with the following:-

"69E. DEDUCTION FOR GIFTS TO CHARITABLE BODIES.

(1) Subject to Subsection (2), a gift of money or property other than money to a charitable body approved by the Commissioner General shall be an allowable deduction.

- "(2) Subsection (1) applies -
(a) to a gift whose value exceeds K50.00; and
(b) in the case of a gift of property other than money, where the property was acquired by the taxpayer in the 12 months immediately preceding the making of the gift."

7. NEW SECTION 70A.

The Principal Act is amended by inserting after Section 70 the following new section:-

"70A. DEDUCTION FOR EDUCATION EXPENSES.

(1) In this section -

"dependant child" means a child or student wholly maintained by the taxpayer;

"net education expenses" means amounts of educational fees paid by the taxpayer to a non-governmental primary or high school, whether within or outside Papua New Guinea, less any subsidy, allowance or assistance received.

"(2) The amount of net education expenses incurred by a resident taxpayer in connection with the education of a dependant child is an allowable deduction.

"(3) The amount allowable under this section is the net education expenses incurred by the taxpayer."

8. LOSSES OF PREVIOUS YEARS (AMENDMENT OF SECTION 101).

Section 101(2) of the Principal Act is amended by repealing the words "For the purposes of this section, loss" and replacing them with the following:-

"For the purposes of this section, a loss".

9. DISTRIBUTION SHORTFALL BY A UNIT TRUST (AMENDMENT OF SECTION 136B).

Section 136B(1) of the Principal Act is amended by repealing the percentage "80%" and replacing it with the following:-

"50%".

Income Tax (Budget Provisions)

10. RESIDUAL EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 163AI).

Section 163AI(1) of the Principal Act is amended by adding the following Paragraph:-

"(h) any amount allowed in respect of assessable income derived from any Special Mining Lease by virtue of Section 163AY or 163XA."

11. NEW SECTION 163AY.

The Principal Act is amended by inserting after Section 163AX the following new section:-

"163AY. ALLOWABLE EXPLORATION EXPENDITURE.

Notwithstanding anything in this Subdivision, allowable exploration expenditure not exceeding 10% of the total expenditure incurred in the year of income for the purpose of exploration outside a Special Mining Lease area, or an amount equal to 10% of the income tax (other than Additional Profits Tax) payable by the taxpayer for that year, whichever is the lesser amount, is an allowable deduction."

12. RESIDUAL EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 163G).

Section 163G(1) of the Principal Act is amended by adding the following Paragraph:-

"(g) any amount allowed under Section 163AY against income derived from any other Special Mining Lease."

13. NEW SECTION 163XA.

The Principal Act is amended by inserting after Section 163X the following new section:-

"163XA. ALLOWABLE EXPLORATION EXPENDITURE.

Notwithstanding anything in this Subdivision, allowable exploration expenditure not exceeding 10% of the total expenditure incurred in the year of income for the purpose of exploration outside the area of a Special Mining Lease granted before 1 January 1988, or an amount equal to 10% of the income tax (other than Additional Profits Tax) payable by the taxpayer for that year, whichever is the lesser amount, is an allowable deduction."

14. RESIDUAL EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 164F).

Section 164F(2) of the Principal Act is amended by adding the following Paragraph:-

"(h) any amount allowed under Section 164U in respect of income derived from any other Petroleum Development Licence."

15. NEW SECTION 164U.

The Principal Act is amended by inserting after Section 164T the following new section:-

"164U. ALLOWABLE EXPLORATION EXPENDITURE.

Notwithstanding anything in this Subdivision, allowable exploration expenditure not exceeding 10% of the total expenditure incurred in the year of income for the purpose of exploration outside a Petroleum Development Licence area, or an amount equal to 10% of

Income Tax (Budget Provisions)

the income tax (other than Additional Profits Tax) payable by the taxpayer for that year, whichever is the lesser amount, is an allowable deduction."

16. NEW SECTION 196GA.

The Principal Act is amended by inserting after Section 196G the following new section:-

"196GA. NON-APPLICATION OF THIS DIVISION.

This Division does not apply to any shares sold or otherwise disposed of after 16 November 1993."

17. INTERPRETATION (AMENDMENT OF SECTION 196Y).

Section 196Y of the Principal Act is amended in Paragraph (1) of the definition of "qualifying training expenses" by repealing the word "employees" and replacing it with the following:-

"citizen employees."

18. REBATE OF SALARY OR WAGES TAX (AMENDMENT OF SECTION 214).

Section 214 of the Principal Act is amended -

(a) by repealing Subsection (1) and replacing it with the following:-

"(1) Where, in a fiscal year, a taxpayer -

(a) incurs losses or outgoings -

(i) in the course of deriving salary or wages, and such losses or outgoings exceed K200.00; or

(ii) for which a deduction may be allowed under Section 69, 69A, 69C, 69E, 96 or 97A; and

(b) such losses or outgoings would, but for Section 66A(1), have been allowable deduction in terms of Part III.3A,

he may, subject to Subsections (2) and (3) apply to the Commissioner General for a rebate under this section."; and

(b) by repealing Subsection (3) and replacing it with the following:-

"(3) Where the Commissioner General is satisfied that -

(a) losses or outgoings to the extent that they exceed K200.00 were necessarily incurred by the taxpayer in the course of his employment; or

(b) losses or outgoings of a kind referred to in Subsection (1)(a)(ii) were incurred by the taxpayer,

he shall allow a rebate of 20% of the losses or outgoings incurred, provided that a rebate allowed under this section shall not exceed the total salary or wages tax paid during the the fiscal year in which the losses or outgoings were incurred, after allowance of any rebate for non-salary or wages loss under Subsection (4)."

19. NEW SECTION 214B.

The Principal Act is amended by inserting after Section 214A the following new section:-

"214B. REBATE OF EDUCATION EXPENSES.

(1) Where, during the year of income, a taxpayer liable to salary or wages tax incurs losses or outgoings for which a deduction

Income Tax (Budget Provisions)

may be allowed under Section 70A and the taxpayer has not been allowed a deduction under Section 70A, he is entitled to a rebate, in his assessment of tax, equal to the tax paid on the amount allowable under Section 70A.

"(2) An application for rebate under Subsection (1) shall be made by lodgement of a return of income as required from year to year by notice in the National Gazette and shall be deemed an objection for the purposes of Part V.2."

20. APPLICATION (AMENDMENT OF SECTION 276A).

Section 276A of the Principal Act is amended by repealing the words "an eligible payment" and replacing them with the following:-

"a business income payment".

21. DEDUCTION BY EMPLOYER FROM SALARY OR WAGES (AMENDMENT OF SECTION 299D).

Section 299D(6) of the Principal Act is amended by repealing the words, letters and figures "to which Section 165E(1)(g) applies" and replacing them with the following:-

"to which Section 165E(1)(c) applies and such leave fares are not exempt under Section 40AA,".

22. OFFENCES (AMENDMENT OF SECTION 354T).

Section 354T is amended by repealing the penalty clause and replacing it with the following:-

"Penalty: A fine not exceeding K5000.00 or imprisonment for a term not exceeding 12 months, or both."

23. RELEASE OF TAXPAYERS IN CASES OF HARDSHIP (AMENDMENT OF SECTION 367).

Section 367 of the Principal Act is amended by repealing Subsection (1) and replacing it with the following:-

"(1) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner General, the Secretary for Finance and Planning, the Commissioner of Taxation and the Commissioner of Customs or of such substitutes for all or any of them as the Minister appoints from time to time that -

(a) a taxpayer has suffered such a loss or is in such circumstances; or

(b) owing to the death of a person who, if he had lived, would have been liable to pay tax, the dependants of that person are in such circumstances,

that the exaction of the full amount of tax will entail serious hardship, the Board may release the taxpayer or the trustee of the estate of the deceased person (as the case may be) wholly or in part from liability, and the Commissioner General may make such entries and alterations in the assessment as are necessary for that purpose."; and

2

Income Tax (Budget Provisions)

(b) in Subsection (4), by repealing the words "his representative" and replacing them with the following:-

"a representative".

I hereby certify that the above is a fair print of the *Income Tax (Budget Provisions) Act 1993* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Income Tax (Budget Provisions) Act 1993* was made by the National Parliament on 25 November 1993.

Acting Speaker of the National Parliament.