

FIJI

ACT NO. 10 OF 1998



I assent.

[L.S.]

K. K. T. MARA
President

[20 April 1998]

AN ACT

TO AMEND THE INCOME TAX ACT

ENACTED by the Parliament of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Income Tax (Amendment) Act 1998.
- (2) Subject to subsection (3), this Act shall be deemed to have commenced on 1st January 1998.
- (3) Sections 3, 4, 5, 9, 10, 11 and 12 shall commence on the 1st January 1999.

Interpretation

2. The Income Tax Act (Cap. 201) is, in this Act, referred to as “the principal Act”.

Section 2 amended

3. Section 2 of the principal Act is amended in the definition of “withholding tax” by inserting “9A” immediately after “9”.

Section 9 amended

4. Section 9 of the principal Act is amended—

- (a) by deleting the heading and substituting “Non-resident interest withholding tax”;
- (b) in subsection (1) by inserting “non-resident” immediately before “interest withholding tax” in the second line.

New section 9A added

5. The principal Act is amended by adding immediately after section 9 the following new section—

“Resident interest withholding tax

9A.—(1) Notwithstanding any other provisions of this Act there shall be paid a tax, to be known as “resident interest withholding tax” in respect of any interest which accrues to or in favour of a resident if the debtor in respect of any such interest is a financial institution.

(2) Resident interest withholding tax shall be paid at the rate of 35%.

(3) Resident interest withholding tax shall not be payable where—

- (a) the depositor in whose favour the interest accrues has provided the financial institution paying the interest with a tax identification number in accordance with subsection (5); or,
- (b) the depositor in whose favour the interest accrues has obtained a valid certificate of exemption in accordance with subsections (10) and (11) and furnished the said certificate to the financial institution paying the interest; or,
- (c) the depositor in whose favour the interest accrues is a financial institution.

(4) The person liable for resident interest withholding tax shall be the depositor to whom or in whose favour the interest accrues.

(5) Any depositor who elects to provide the financial institution with a tax identification number shall do so by providing, to the satisfaction of the financial institution, documentary evidence of the depositor's identity and tax identification number.

(6) Subject to subsection (7), resident interest withholding tax shall be payable in respect of any interest which accrues to or in favour of more than one person unless all such persons entitled to such interest have provided their tax identification numbers in accordance with subsection (5).

(7) Notwithstanding subsection (6), where interest accrues to or in favour of a husband and wife jointly, it shall be sufficient compliance with subsection (3)(a) if the tax identification number of the husband only is provided in accordance with subsection (5).

(8) Where interest accrues to or in favour of a dependent child or legally incapacitated person it shall be sufficient compliance with subsection (3)(a) if the tax identification number of that child's or person's parent, guardian or other legal representative is provided in accordance with subsection (5).

(9) Where the Commissioner determines that a tax identification number provided to a financial institution is incorrect he shall notify the financial institution in writing of that fact and the financial institution shall be required, within 10 days from the date of the Commissioner's notice, to deduct tax in accordance with subsection (12) from interest thereafter accruing to the depositor in question.

(10) Any person the whole of whose income is otherwise exempt from a under the provisions of this or any other Act may apply in writing to the Commissioner for a Certificate of Exemption from resident interest withholding tax.

(11) Upon being satisfied that any person is a person to whom subsection (10) applies, the Commissioner may grant a Certificate of Exemption from resident withholding tax in such form as he may determine.

(12) Notwithstanding subsection (4), every financial institution when paying or crediting interest shall deduct a sum equal to the amount of resident interest withholding tax applicable thereto and remit such amount to the Commissioner within 15 days after the end of the month in which the interest is paid or credited, together with a report, in such form as may be approved by the Commissioner, containing details of tax identification numbers provided, names of all depositors to whom interest has accrued, amounts of interest and tax deducted therefrom.

(13) Any tax paid under subsection (12) by any financial institution may, notwithstanding any agreement to the contrary, be deducted or withheld from the interest which is liable to be paid or credited and recovered by the financial institution from the person to whom or in whose favour the interest accrued and no action shall lie against a financial institution making any deduction under this section.

(14) Every financial institution shall furnish to the Commissioner in such form as he may prescribe an annual report as required by section 54 containing details of—

- (a) all tax identification numbers provided to the financial institution;
- (b) interest paid and amounts of tax deducted therefrom; and
- (c) the names of all depositors to whom interest has accrued.

(15) Every financial institution shall, not less than once a year and in writing, notify the person to whom or in whose favour any interest has accrued of the amount of interest paid or credited and the amount of any tax deducted under this section.

(16) For the purposes of this section—

“depositor” means any person depositing money with a financial institution on terms under which it will be repaid with or without interest and either on demand or after a fixed period or after notice;

“financial institution” means a financial institution licensed under the Banking Act 1995;

“interest” means any interest paid to or credited to the account of any depositor whether actually paid, credited, reinvested, accumulated, or dealt with on behalf of the depositor;

“tax identification number” means the tax file number provided to a taxpayer by the Commissioner for the purposes of this Act.”

Section 11 amended

6. Section 11 of the Principal Act is amended—

(a) by deleting paragraph (k) and its provisos and substituting the following—

“(k) the amount of any balancing charge required to be made under instructions given by the Minister in respect of allowances for depreciation and capital improvement or in respect of deductions allowed under section 21 (1) (c) or section 23;”;

(b) by deleting from paragraph (x) the word “tourist” and substituting it with the word “maritime”.

Section 16 amended

7. Section 16(4) of the principal Act is amended by deleting “supportive projects to the tourist industry” and substituting “the maritime vessels”.

Section 21 amended

8. Section 21 of the principal Act is amended—

(a) by deleting paragraph (a) and its provisos and substituting the following—

“(a) an amount, in accordance with instructions issued by the Minister under this paragraph—

(i) for depreciation of capital expenditure incurred; or

(ii) for capital expenditure incurred on improvements to land use for agricultural or pastoral purposes;”

(b) by deleting the fullstop at the end of paragraph (r) and substituting a semicolon;

(c) by adding immediately after paragraph (r) the following—

“(s) one and one half times the amount of any cash donation made by a taxpayer between 1st January 1998 and 31 December 2003 to the South Pacific Games Infrastructure Fund.”

Section 54 amended

9. Section 54 of the principal Act is amended by inserting, “9A” after “9” in the second line.

Section 93 amended

10. Section 93 of the principal Act is amended—

(a) in paragraphs (a) and (b) of subsection (1) by inserting, “9A”, after “9”;

(b) in subsection (2) by inserting “9A or” after “section” in the third line.

Section 104 amended

11. Section 104(2) of the principal Act is amended by inserting, “9A” after “9” in the third line.

Fourth Schedule amended

12. The Fourth Schedule to the principal Act is amended in paragraph (ii) of table C by adding “and resident” immediately after “Non-resident”.

Fifth Schedule amended

13. The Fifth Schedule to the principal Act is amended in paragraph 11 by deleting the word “eighty” wherever it appears and substituting “seventy”.

Eighth Schedule amended

14. The Eighth Schedule to the principal Act is amended—

(a) by deleting “Tourist” in the heading thereto and substituting “Maritime”;

(b) by repealing paragraph 1(1) and substituting—

“(1) In order to obtain the benefit of the maritime vessels investment allowance, a person who proposes to use an eligible vessel in Fiji may apply in writing to the Tourism Minister.”;

- (c) in paragraph 2(2)—
- (i) by repealing paragraph 2(2)(a) and substituting—
“(a) the requirements for such a vessel in the relevant area”;
 - (ii) by repealing paragraph 2(2)(c) and substituting—
“(c) whether the vessel is, or is to be, of suitable size and standard for operations in the relevant area”;
- (d) in paragraph 3(1) by deleting “tourist” wherever it appears and substituting “maritime”;
- (e) in paragraph 3(2) by deleting “tourist” in the fourth line;
- (f) in paragraph 3(3) by inserting “other” after “from” and by deleting “in relation to tourism” in the fourth line;
- (g) in paragraph 3(4)—
- (i) by deleting the words “for tourist operations” wherever they appear;
 - (ii) in paragraph 3(4)(a) by inserting “all such” before “vessels” in the second and fifth lines;
- (h) in paragraph 5 by deleting “in” after “allowance” in the second line and substituting “is”;
- (i) in paragraph 8—
- (i) by deleting all the words and figures after “than” in the third line of the definition of “eligible vessel” and substituting “\$250,000”;
 - (ii) by deleting “for tourist operations” in the fourth line of the definition of “relevant area”;
 - (iii) by repealing the definition of “tourist operations”;
 - (iv) by deleting “tourist” in the definition of “investment allowance” and substituting “maritime”.

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Passed by the House of Representatives this Twenty Third day of March, in the year of our Lord One Thousand, Nine Hundred and Ninety-Eight

Passed by the Senate this First day of April, in the year of our Lord One Thousand, Nine Hundred and Ninety-Eight.