

THE REPUBLIC OF KIRIBATI
INTERNAL REVENUE BOARD ACT 1990
ARRANGEMENT OF SECTIONS

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THE REPUBLIC OF KIRIBATI

(No.8 of 1989)

I assent,

Beretitenti,

*M. Tani**22/1/89*

AN ACT TO ESTABLISH AN INTERNAL REVENUE BOARD; AND FOR CONNECTED PURPOSES

Commencement:

1990

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

PART I
PRELIMINARYShort title and commencement

1. This Act may be cited as the Internal Revenue Board Act 1990 and shall come into operation on 1 January 1990.

PART II
ESTABLISHMENT AND COMPOSITION OF THE BOARD**Establishment of Board**

2. (1) There is established a body to be called the Internal Revenue Board (in this Act referred to as "the Board").

(2) For the purposes of the Interpretation and General Clauses Ordinance (Cap. 46) the section headings in this Act shall be deemed to be marginal notes.

Composition of Board

3. (1) The Board shall comprise the following 7 members -
- (a) the Secretary for Finance and Economic Planning who shall be the Chairman of the Board;
 - (b) the Secretary for Trade, Industry and Labour;
 - (c) the Under-Secretary, Public Service Division, Office of the Beretitenti;
 - (d) the Deputy Secretary for Finance and Economic Planning who shall be the Vice-Chairman of the Board;
 - (e) the Chief Planning Officer, Ministry of Finance and Economic Planning;

- (f) the Chief Customs Officer; and
- (g) the Inspector of Taxes, Ministry of Finance and Economic Planning who shall be Secretary and Adviser to the Board.

(2) A member of the Board may, in writing, with the prior approval of the Minister in writing, appoint an alternate who -

- (a) in the absence of that member, may, subject to subsection (4), attend that meeting; and
- (b) when attending a meeting of the Board, shall be deemed to be a member of the Board.

(3) In the absence from a meeting of the Board of the Inspector of Taxes referred to in subsection (1), the alternate appointed by him under subsection (2) shall attend the meeting and shall act as Secretary and Adviser to the Board.

(4) Where there is more than one alternate appointed under subsection (2), only one alternate, who, subject to subsection (3), shall be determined by the Minister, may attend a meeting of the Board.

PART III POWERS AND FUNCTIONS OF THE BOARD

Functions

4. The Board shall perform the functions assigned to it under this Act, the Income Tax Act 1990 or any other Act.

Delegation

5. (1) The Board may, either generally or as otherwise provided in the instrument of delegation, by writing, delegate any of its functions to a public officer designated in that instrument, unless any of the Acts referred to in section 4 otherwise provides.

(2) A function so delegated when performed by the delegate shall, for the purposes of this Act, be deemed to have been performed by the Board.

(3) A delegation of a function under this section does not prevent the performance of that function by the Board.

(4) The Board may not delegate its function under this section.

Annual Report

6. (1) The Board shall, as soon as practicable after 31 March in each year, cause to be prepared and shall submit to the Minister an annual report containing a report of -

- (a) the activities of the Board under any of the Acts referred to in section 4 and of the working of those Acts during the preceding year ending on 31 December of that year;

- (b) all decisions taken by the Board in that year under section 7 to levy penalty taxes and to institute prosecutions;
- (c) the outcome of all prosecutions instituted by the Board under section 7, and of appeals therefrom, that have been concluded in that year; and
- (d) the comments, if any, of the Director of Audit thereon.

(2) The Minister shall cause a copy of each annual report of the Board to be laid before the Maneaba ni Maungatabu not less than 48 hours before the commencement of the next meeting of the Maneaba ni Maungatabu after he receives that report.

(3) The Board may not delegate its function under this section.

Penalties and prosecutions

7. Without prejudice to the powers of the Attorney-General under section 42 of the Constitution and subject to the provisions of the Income Tax Act 1990 and any other Act assigning functions to the Board, all decisions -

- (a) to levy penalty taxes under Part XVIII of the Income Tax Act 1990; or
- (b) to institute prosecutions for non-compliance with the Income Tax Act 1990 or any other Act that levies taxes in relation to which functions are assigned to the Board.

shall be made by the Board.

Secrecy

8. (1) A person to whom this section applies shall not, either directly or indirectly -

- (a) make a record of, or divulge or communicate to any person, any information -
 - (i) concerning the affairs of another person;
 - (ii) relating to any matter, transaction or decision under or in connection with this or any other Act, that has been acquired by him by reason of his membership of the Board or of his functions in connection with this Act or under the Income Tax Act 1990; or
- (b) produce to any person any document relating to the affairs of another person furnished for the purposes of the Income Tax Act 1990,

unless in the performance of a function under, or in connection with, this Act or any other Act or as required by any other legal duty.

(2) This section applies to every person -

- (a) who is or has been a member of the Board or a member's alternate appointed under section 3(2);
- (b) to whom any function of the Board is delegated under section 5;
- (c) who attends a meeting of the Board by virtue of section 9(7); or

- (d) who performs any function, in his capacity as a public officer, under the Income Tax Act 1990 or in connection with the functions of the Board.

(3) Any person who contravenes any of the provisions of subsection (1) commits an offence and shall be liable upon conviction to imprisonment for 12 months or to a fine of \$1000 or to both such fine and imprisonment.

PART IV PROCEDURE AND MEETINGS OF THE BOARD

Meetings

9. (1) Meetings of the Board shall be convened as may be necessary for the transaction of the business of the Board and shall be held at such times and places as the Chairman of the Board determines.

(2) The Chairman may convene a special meeting of the Board at any time but shall convene such a meeting upon receipt of a written request to that effect addressed to him by at least 5 members of the Board.

(3) The quorum for a meeting of the Board is 5 members.

(4) If both the Chairman and the Vice-Chairman of the Board are absent from a meeting of the Board, the members present shall elect one of their number (other than an alternate of an absent member) to preside.

(5) The Chairman, the Vice-Chairman or other person presiding shall have a deliberative vote but shall not have a casting vote.

(6) Minutes in proper form shall -

(a) be kept for each meeting of the Board; and

(b) be confirmed at the next meeting or as soon as practicable thereafter;

and copies of the minutes certified by the Chairman of the Board shall be forwarded to the Minister as soon as possible after they have been so confirmed.

(7) The Board may invite any one or more persons to attend a particular meeting of the Board for the purpose of assisting or advising the Board, but such a person shall not be deemed to be a member of the Board and, in particular, shall not be entitled to vote.

Decisions of the Board

10. Every decision of the Board shall be made by the affirmative votes of at least 5 members present and voting at a meeting of the Board.

Conflict of interest

11. (1) A member of the Board or any person invited to attend a meeting of the Board under section 9(7), who is in any way directly or indirectly interested in any matter (whether pecuniary or otherwise) that falls to be considered by the Board shall disclose

the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

(2) The disclosure shall be recorded in the minutes of the meeting.

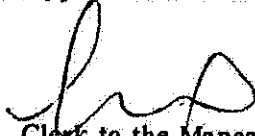
(3) Where the interest disclosed is in conflict with the proper performance by the person making the disclosure, of his functions under this Act, the Income Tax Act 1990 or any other Act that person shall -

- (a) not be counted for the purpose of determining the quorum of the Board when deliberating on or deciding the matter in relation to which the disclosure was made;
- (b) not be present during any deliberation of the Board with respect to that matter; and
- (c) not take part in the making of any decision of the Board with respect to that matter.

Personal immunity

12. No member of the Board or any person mentioned in section 8(2) shall be personally liable for any act done, or default made, by the Board or by a member thereof or by such other person in good faith in the performance of its or his functions under this Act, the Income Tax Act 1990 or any other Act assigning functions to the Board.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 19th December, 1989 and is found by me to be a true and correctly printed copy of the said Bill.



Clerk to the Maneaba ni
Maungatabu

I certify that the above Act, was on the 19th December, 1989, passed by the Maungatabu on a certificate of urgency under section 68(3)(a) of the Constitution



Speaker

Published by exhibition -

(a) at the Public Office of the Beretitenti this
22nd day of December 1989.



Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this 22nd
day of Dec, 1989.



Clerk to the Maneaba ni
Maungatabu.

**INTERNAL REVENUE BOARD ACT 1990
EXPLANATORY MEMORANDUM**

1. The principal object of this Act is to establish an Internal Revenue Board to perform the functions assigned to it by this Act and the proposed Income Tax Act 1990 and any that may be assigned to it by other legislation.
2. Part I of the Act sets out the preliminary matter of the short title and commencement of the Act (clause 1).
3. Part II, containing clauses 2 and 3 of the Act, provides for the establishment and name of the Board (clause 2) and its composition (clause 3). The Board is comprised of 7 specified public officers (whose appointments are ex officio). Limited provision is made (clause 3(2)-(4)) for the appointment of alternates.
4. Part III, which contains clauses 4 to 8 inclusive of the Act, provides for the powers and functions of the Board. These include those assigned to it by the proposed Income Tax Act 1990 or by other legislation (clause 4), the power to delegate any of its functions to designated public officers (clause 5) and the power to decide if any penalty tax should be levied under the proposed Income Tax Act or if any prosecution should be instituted under that Act or any other Act in relation to which the Board has functions (clause 7). This Part also requires an annual report to be prepared, a copy of which will be laid before the Maneaba ni Maungatabu (clause 6) and imposes duties of secrecy upon those concerned with the workings of the tax legislation (clause 8).
5. Part IV, which contains clauses 9 to 12 inclusive of the Act, provides for the meetings of the Board, its quorum and procedures (clause 9) and its voting (clause 10). Clause 11 is designed to prevent members of the Board taking part in decision-making on matters in which they have a personal interest. Clause 12 gives personal immunity to the Board members, and those performing functions connected with its activities, in respect of any act or default of the Board or its members or the officers working with the Board, when done in good faith.

Michael N Takabwebwe

Attorney-General

6th October 1989.

LEGAL REPORT

I hereby certify that in my opinion none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

Michael N. Takabwebe
Attorney General
19 December 1989