

No. 23 of 2008.

*Income Tax (2009 Budget Amendment) Act 2008.*

Certified on : 12.05.09



No: of 2008.

*Income Tax (2009 Budget Amendment) Act 2008.*

**ARRANGEMENT OF SECTIONS.**

1. Interpretation (Amendment of Section 4) -  
"public authority"
2. Exemption of Public Authorities (Amendment of Section 24).
3. Interpretation (Amendment of Section 154E).
4. Limited Application of reduced rate (Amendment of Section 154G).
5. New Sections 247A and 247B.

**"247A. APPEAL TO THE NATIONAL COURT."**

**"247B. TRANSITIONAL PROVISION."**

6. Repeal and Replacement of Section 364.

**"364. TAXPAYER TO KEEP RECORDS."**



, No: of 2008.

AN ACT

entitled

*Income Tax (2009 Budget Amendment) Act 2008,*

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

MADÉ by the National Parliament and deemed to come into operation on 1 January 2009.

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

Section 4(1) of the Principal Act is amended by inserting immediately after the definition of "provincial law" the following new definition:-

"public authority" means all instruments of the State in respect of the Government of Papua New Guinea, whether Departments, State entities, State enterprises or other instruments, and includes the offices of the National Parliament, but does not include the Governor-General, members of the National Executive Council, Ministers of the State or members of Parliament."

**2. EXEMPTION OF PUBLIC AUTHORITIES (AMENDMENT OF SECTION 24).**

Section 24(1) of the Principal Act is amended by repealing the figure "(2)" and replacing it with the following figure:-

"(3)".

**3. INTERPRETATION (AMENDMENT OF SECTION 154E).**

Section 154E of the Principal Act is amended -

(a) in the definition of "large scale tourist accommodation facility"-

(i) by deleting from Paragraph (b) "US\$10 million" and substituting them with "US\$7 million"; and

(ii) by deleting from Paragraph (c) "150 rooms" and substituting them with "100 rooms"; and

(b) in the definition of "substantially improved tourist accommodation facility" -

(i) by deleting the word "improved" and substituting the words "improved large scale"; and

(ii) by deleting from Paragraph (b) "US\$10 million" and substituting them with "US\$7 million"; and

- (iii) by deleting from Paragraph (c) "150 rooms" and substituting them with "100 rooms".

**4. LIMITED APPLICATION OF REDUCED RATE (AMENDMENT OF SECTION 154G).**

Section 154G of the Principal Act is amended by repealing the word "four" and replacing it with the following:-  
"fourteen".

**5. NEW SECTIONS 247A AND 247B.**

The Principal Act is amended by inserting the following new sections after Section 247:-

**"247A. APPEAL TO THE NATIONAL COURT.**

"(1) An appeal to the National Court pursuant to Section 247(b), shall be a hearing *de novo* and neither the taxpayer nor the Commissioner General shall be restricted to material or evidence considered by the Commissioner General in determining the taxpayer's objection.

"(2) A taxpayer on an appeal filed pursuant to Section 247(b) has a duty to disclose, by production of a list of documents verified by affidavit, and make available for inspection and copying, to the Commissioner General each document that -

- (a) is in the possession or custody, or under the control or power of, the taxpayer; and
- (b) is directly or indirectly relevant to any allegation in issue in the appeal.

"(3) The duty of disclosure by the taxpayer continues until the appeal is determined.

"(4) An allegation remains in issue until it is -

- (a) admitted or taken to be admitted; or
- (b) withdrawn, struck out, or otherwise disposed of.

"(5) The duty to make disclosure and documents available for inspection and copying pursuant to this section shall be made within 28 days of the filing of an appeal to the National Court under Section 247(b).

**"247B. TRANSITIONAL PROVISION.**

"Any appeal filed under Section 247(b) before the commencement date of the *Income Tax (2009 Budget Amendment) Act 2008* and which has not been determined shall be subject to the following provisions: -

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- (a) the appeal shall be heard and determined in accordance with Section 247A and any prescribed Regulations made under the *Income Tax Act 1959*; and
- (b) the duty to make disclosure and documents available for inspection and copying pursuant to Section 247A shall apply as if the appeal was filed as at the commencement date of the *Income Tax (2009 Budget Amendment) Act 2008*."

**6. REPEAL AND REPLACEMENT OF SECTION 364.**

Section 364 of the Principal Act is repealed and is replaced with the following:-

**"364. TAXPAYER TO KEEP RECORDS.**

"(1) For the purpose of this section, "records" includes books of account (whether contained manual, mechanical, or electronic format) recording receipts of payments of income or expenditure and also includes vouchers, bank statements, invoices, tax invoices, credit notes, debit notes, receipts, and such other documents necessary to verify the entries in such books of account.

"(2) Subject to Subsections (4), (5) and (6) a person carrying on business shall keep in Papua New Guinea, in the English language, sufficient records of his income and expenditure to enable his assessable income and allowable deductions to be readily ascertained, and shall retain those records in Papua New Guinea for a period of at least seven years after furnishing of the tax returns or accounts to which they relate.

"(3) A person who fails to comply with Subsection (2) is guilty of an offence.  
Penalty: A fine not less than K500.00 and not exceeding K5,000.00.

"(4) The Commissioner General may, in the Commissioner General's discretion, on application in writing being made to the Commissioner General in that behalf, authorize a registered person referred to in Subsection (3), by notification in writing, to keep and retain outside Papua New Guinea or, as the case may be, in a language other than the English language, such of those records as the Commissioner General determines.

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- “(5) This section does not require the retention of any records —
- (a) in respect of which the Commissioner General has given notice in writing that the retention is not required; or
  - (b) of a company that has been liquidated.

“(6) The Commissioner General may, by notice in writing given before the expiry of the seven years retention period specified in Subsection (2), require a registered person to retain the records specified in that subsection for a further period not exceeding three years following the expiry of the seven year period where —

- (a) the affairs of the registered person are or have been under audit or investigation by the Commissioner General, or
- (b) the Commissioner General intends to conduct such an audit or investigation before the expiry of the retention period as so extended, or is considering any such audit or investigation.”

I hereby certify that the above is a fair print of the *Income Tax (2009 Budget Amendment) Act 2008*, which has been made by the National Parliament.

Clerk of the National Parliament

I hereby certify that the *Income Tax (2009 Budget Amendment) Act 2008* was made by the National Parliament on 26 November 2008.

Speaker of the National Parliament