

No. 23 of 2001.

*Income Tax (Amendment) Act 2001*

Certified on: 09 APR 2002.



INDEPENDENT STATE OF PAPUA NEW GUINEA

No. of 2001.

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INDEPENDENT STATE OF PAPUA NEW GUINEA

AN ACT

entitled

*Income Tax (Amendment) Act 2001,*

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

MADE by the National Parliament to come into operation or to be deemed to have come into operation, as the case may be –

- (a) in respect of Section 47 - on 1 April 1999; and
- (b) in respect of Section 51 - on 1 January 2002; and
- (c) in respect of the remainder - on 1 January 2001.

1. INTERPRETATION (AMENDMENT OF SECTION 4).

Section 4(1) of the Principal Act is amended—

(a) in the definition of “assessable income from gas operations”—

(i) by repealing Paragraph (a) and replacing it with the following :—

“(a) assessable income from the sale of petroleum or gas, at a price ascertained by reference to the provisions of Section 158 of the *Oil and Gas Act 1998*,” and

(ii) by repealing Paragraph (d) and replacing it with the following :—

“(d) assessable income from the sale of petroleum or gas, at a price ascertained by reference to the provisions of Section 158 of the *Oil and Gas Act 1998*, deemed to be assessable income from those operations pursuant to Section 157B(7).”; and

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- (b) in the definition of “assessable income from petroleum operations”—
- (i) by repealing Paragraph (a) and replacing it with the following :—
- “(a) assessable income from the sale of petroleum or gas, at a price ascertained by reference to the provisions of Section 158 of the *Oil and Gas Act 1998*, or in the case of refined products produced in the case of petroleum operations by reference to the fair market value of those products obtained from petroleum operations carried on by him;”  
and
- (ii) by repealing Paragraph (d) and replacing it with the following:—
- “(d) assessable income from the sale of petroleum or gas, at a price ascertained by reference to the provisions of Section 158 of the *Oil and Gas Act 1998*, deemed to be assessable income from those operations pursuant to Sections 157B(7) or 158I.”; and
- (c) by repealing the definitions of “co-ordinated development agreement”, “co-ordinated development participant” and “development licence”; and
- (d) by repealing the definition of “designated gas project” and replacing it with the following :—
- ““designated gas project” has the meaning given in Section 158A(1);”and
- (e) in the definition of “gas income tax” by repealing the word and figure “Section 165X” and replacing them with the following :—
- “Section 159C”; and
- (f) by inserting after the definition of “mineral” the following new definition:—
- ““mining income tax” means income tax on taxable income from mining but does not include additional profits tax payable under subdivision III.10.E;” and
- (g) by repealing the definitions of “mining project” and “norm price”; and
- (h) in the definition of “petroleum income tax” by repealing the word and figure “Section 164X” and replacing them with the following :—
- “Section 159C”; and

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- (i) by repealing the definition of “petroleum information”; and
- (j) by repealing the definition of “petroleum project” and replacing it with the following :—
  - ““petroleum project” has the meaning given in Section 157A;” and
- (k) by repealing the definitions of “petroleum prospecting licence”, “petroleum right”, “pipeline licence” and “retention licence”; and
- (l) in the definition of “royalty” or “royalties” by repealing the words and figures “Section 163AK, 163J or 164B” and replacing them with the following :—
  - “Section 155L”; and
- (m) by repealing the definitions of “taxable additional profits from gas operations”, “taxable additional profits from mining operations”, and “taxable additional profits from petroleum operations” and replacing them with the following new definitions:—
  - ““taxable additional profits from resource operations” has the meaning given in Section 159A(4);
  - ““taxable income from mining operations” means the taxable income that comprises the amount remaining after deducting from the assessable income from mining operations all the deductions allowable under this Act relating to such income;”.

**2. OFFICERS TO OBSERVE SECRECY (AMENDMENT OF SECTION 9).**  
Section 9 of the Principal Act is amended in Subsection (7) by repealing the penalty provision and replacing it with the following :—

“Penalty: For the breach of any of the provisions of this section, a fine of K10,000.00 or imprisonment for a term of 12 months.”.

**3. OFFICERS NOT TO ASSIST IN PREPARATION OF TAX RETURN ETC (AMENDMENT OF SECTION 10).**

Section 10 of the Principal Act is amended in Subsection (2) by repealing the penalty provision and replacing it with the following:-

“Penalty: A fine of not less than K200.00 and not exceeding K2,000.00.”.

**4. WHERE CONSIDERATION NOT IN CASH (AMENDMENT OF SECTION 15).**

Section 15 of the Principal Act is amended by repealing the words and figures “Sections 163AN, 163M, 164P and 165P” and replacing them with the following :—

“Section 155P”



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5. **GAINING IMPROPER ADVANTAGES, ETC. (AMENDMENT OF SECTION 45H).**  
Section 45H of the Principal Act is amended in Subsection (1) by repealing the penalty clause and replacing it with the following :-  
“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”.
6. **GAINING IMPROPER ADVANTAGE, ETC. (AMENDMENT OF SECTION 45K).**  
Section 45K of the Principal Act is amended in Subsection (1) by repealing the penalty clause and replacing it with the following :-  
“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”.
7. **OFFENCE (AMENDMENT OF SECTION 45R).**  
Section 45R of the Principal Act is amended in Subsection (1) by repealing the penalty clause and replacing it with the following :-  
“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”.
8. **OFFENCE (AMENDMENT OF SECTION 46AE).**  
Section 46AE of the Principal Act is amended in Subsection (1) by repealing the penalty clause and replacing it with the following :-  
“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”.
9. **GAINING IMPROPER ADVANCE, ETC. (AMENDMENT OF SECTION 46BD).**  
Section 46BD of the Principal Act is amended in Subsection (1) by repealing the penalty clause and replacing it with the following :-  
“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00”.
10. **CERTAIN ITEMS OF ASSESSABLE INCOME (AMENDMENT OF SECTION 47).**  
Section 47(2) of the Principal Act is amended by repealing the words and figures “Section 156(1)(b), Section 163AI(1)(g) or Section 164B(7)(c) or Section 165B(7)(c)” and replacing them with the following :-  
“Sections 155A(6)(c), 155B(3), 155G(4) or 157B(8)”.
11. **LOSSES AND OUTGOINGS (AMENDMENT OF SECTION 68).**  
Section 68(1) of the Principal Act is amended by repealing the words and figures “Sections 68A, 163AO, 163AU, 163AV, 163N, 163U, 163V, 164N, 164Q, 165N and 165Q” and replacing them with the following :-  
“Section 68A and Division III.10”.

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12. **CALCULATION OF DEPRECIATION (AMENDMENT OF SECTION 75).**  
Section 75(1) of the Principal Act is amended by repealing the words and figures "Section 163Q(4)" and replacing them with the following:—

"Section 155J".

13. **DISPOSAL, LOSS OR DESTRUCTION OF DEPRECIATED PROPERTY (AMENDMENT OF SECTION 78).**

Section 78(9) of the Principal Act is amended by repealing the words and figures "Sections 164G(8)(c) or 165G(7)(c)" and replacing them with the following:—

"Section 155D(4)".

14. **DEFINITION OF DEPRECIATED VALUE (AMENDMENT OF SECTION 83).**

Section 83(1) of the Principal Act is amended by repealing the words and figures "Section 163Q(4)" and replacing them with the following:—

"Division III.10".

15. **LOSSES OF PREVIOUS YEARS (AMENDMENT OF SECTION 101).**

Section 101 of the Principal Act is amended —

- (a) in Subsection (3), by repealing the words and figures "164F and 165F,";  
and
- (b) by inserting a new Subsection (4a) as follows —

"(4A) Notwithstanding any other provision of this section, no loss incurred on or before 31 December 2000 shall be deductible, that, under the provisions in force prior to 1 January 2001, would not have been deductible from income derived in the year ended 31 December 2000 or in a later year."

16. **LANDOWNER RESOURCES TRUST TO BE TAXED AS RESOURCE COMPANY (AMENDMENT OF SECTION 139).**

Section 139 of the Principal Act is amended —

- (a) in Subsection (3), by repealing the words and figures "Subdivisions III.10D, III.10AC or III.10BC" and replacing them with the following:—

"Subdivision III.10E"; and

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- (b) in Subsection (4), by repealing the words and figures “Subdivisions III.10CA, III.10C, III.10A or III.10B” and replacing them with the following –

“Subdivisions III.10A, III.10B, III.10C or III.10D”.

17. **INTERPRETATION (AMENDMENT OF SECTION 155).**

Section 155(1) of the Principal Act is amended-

- (a) by inserting, immediately after the definition of “amount recovered”, the following new definition:—

““co-ordinated development agreement” means —

- (a) an agreement between the licensees of two or more development licenses which provides for the unit development or co-ordinated petroleum development of one or more petroleum pools underlying such development licenses, including agreements of the types referred to in *Sections 64 and 65 of the Oil and Gas Act 1998*; or
- (b) any other agreement between the licensees of two or more petroleum rights whereby the licensees of one petroleum right agree to compensate the licensees of another petroleum right for expenditure incurred or income foregone;” and

- (b) by inserting, immediately after the definition of “consideration”, the following new definition :—

““conversion date” in relation to a field which is part of a petroleum project means the last day of the month prior to the date on which its production of gas exceeds the prescribed ratio of gas production to oil production.” and

- (c) in the definition of “debt” by inserting after the words “as it would have been shown in a balance sheet” the following:—

“prepared in accordance with the standards published by the International Accounting Standards Committee”; and

- (d) by inserting, immediately after the definition of “exploration licence”, the following new definition :—

““field” means an area consisting of a single pool or multiple pools all grouped on or related to the same geological structural feature and/or stratigraphic condition including two or more reservoirs which may be separated vertically by intervening impervious strata or laterally

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by local geologic barriers or both, as variously described in either a Gas Agreement, a Petroleum Agreement, or the Approved Proposals of a Petroleum Development Licence;"; and

- (e) by repealing the definitions of "mining income tax" and "mining information" and replacing them with the following:—

"“mining development licence” means a mining lease or special mining lease issued under the *Mining Act 1992*;"; and

- (f) by repealing the definition of "mining right"; and

- (g) by inserting, after the definition of "new resource project" the following new definitions :—

"“petroleum development licence” means a development licence, or a pipeline licence issued under the *Oil and Gas Act 1998*;

"“petroleum exploration licence” means a petroleum prospecting licence, or petroleum retention licence issued under the *Oil and Gas Act 1998*;

"“petroleum right” means a petroleum exploration licence or a petroleum development licence;

"“Producer Price Index of the United States” means the producer price index for the industry of the relevant resource project as published by the United States Government at internet web site "[HTTP//STATS.BLS.GOV/PPIHOME.HTM](http://stats.bls.gov/ppihome.htm)";"; and

- (h) by inserting, after the definition of "recoupment" the following new definition :—

"“redetermination” means a determination or redetermination pursuant to a co-ordinated development agreement of the rights and obligations of the parties to the agreement as to the costs of petroleum operations or gas operations in respect of the petroleum rights covered by the co-ordinated development agreement and production of petroleum therefrom;"; and

- (i) in the definition of "residual exploration expenditure" by repealing the word and figures "Section 155C" and replacing them with the following:—

"Section 155B"; and

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- (j) in the definition of "resource" or "resources" by repealing the words "mineral ores" and replacing them with the following:—  
  
"minerals"; and
- (k) in the definition of "resource operations" by inserting after the words "by a resource project" the following:—  
  
"or holders of a resource right"; and
- (l) by repealing the definition of "resource project" and replacing it with the following:—  
  
"“resource project” means a designated gas project, a mining project or a petroleum project;" and
- (m) by repealing the definition of "resource right" and replacing it with the following :—  
  
"“resource right” means a resource development licence or an exploration licence;"

**18. ALLOWABLE EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 155A).**

Section 155A of the Principal Act is amended –

- (a) in Subsection (1), by repealing the words "in addition to" and replacing them with the following :—

"together with"; and

- (b) by repealing Subsection (2) and replacing it with the following :—

“(2) For the purposes of this Division, but subject to Section 155M, allowable exploration expenditure of a taxpayer in relation to a resource project is so much of the expenditure incurred by the taxpayer for the purpose of exploration in Papua New Guinea as, at the date of issue of a resource development licence included in the resource project, was incurred within the 20 years prior to that date and which was incurred –

- (i) pursuant to an exploration licence from which the resource development licence was drawn, or
- (ii) in relation to the areas (including relinquished areas) of an exploration licence which has been surrendered or cancelled or has expired,

and includes allowable exploration expenditure deemed to have been incurred by the taxpayer under Section 155L." and

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- (c) by repealing Subsection (6)(d); and
- (d) in Subsection (8), by inserting, immediately after the words “for the acquisition of an interest in all or part of a resource project” the following :-  
“or resource right”; and
- (e) by inserting after Subsection (9) the following new Subsection :-  
“ (10) Notwithstanding the provisions of this division, no deduction is allowable for exploration expenses incurred by a resource development project on or before 31 December 2000, to the extent that such a deduction would not have been allowable under the tax provisions then in force, if a resource development license for that project had been issued on 31 December 2000.”.

**19. RESIDUAL EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 155B).**

Section 155B of the Principal Act is amended –

- (a) by repealing Subsection (1) and replacing it with the following :-  
“(1) The balance of residual exploration expenditure of a taxpayer in relation to a resource project on 31 December 2000 (as calculated under the income tax provisions in force until 31 December 2000) shall, for the purposes of this Section, be deemed to be allowable exploration expenditure incurred on 1 January 2001.”; and
- (b) in Subsection (2), by inserting, immediately after Paragraph (b) the following new paragraph :-  
“(c) any part of that allowable exploration expenditure that has been allowed, or is allowable, as a deduction under Section 155C from the assessable income of the taxpayer in a preceding year of income.”.

**20. DEDUCTION FOR RESIDUAL EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 155C).**

Section 155C of the Principal Act is amended in Subsection (2)(a) by repealing the words “the estimated life of production of” and replacing them with the following :-

“the estimated remaining life of production from”.

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**21. ALLOWABLE CAPITAL EXPENDITURE (AMENDMENT OF SECTION 155D).**

Section 155D of the Principal Act is amended by:-

- (a) in Subsection (1), by repealing the words “in addition to” and replacing them with the following:—

“together with”; and

- (b) in Subsection (2) —

(i) by repealing the word “residual”; and

(ii) by repealing the words “shall be the capital expenditure” and replacing them by the following :—

“shall be the allowable capital expenditure”; and

(iii) by repealing the words “shall be deemed to have been” and replacing them with the following:—

“shall, for the purposes of this Section, be deemed to be allowable capital expenditure”; and

- (c) by repealing Subsection (6) and replacing it with the following:—

“(6) Interest income, other than exempt income, derived by the taxpayer prior to the date of commencement of commercial operations and not already applied to reduce allowable exploration expenditure of the taxpayer pursuant to Section 155A(6), shall be applied in reduction of allowable capital expenditure, and shall, to the extent it reduces allowable capital expenditure, be deemed not to be assessable income.”.

**22. DEDUCTION FOR ALLOWABLE CAPITAL EXPENDITURE (AMENDMENT OF SECTION 155E).**

Section 155E of the Principal Act is amended —

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

“(1) Subject to Sections 155F and 155I, the deduction for allowable capital expenditure of a taxpayer in respect of a resource project shall be —

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- (a) subject to Subsection (4)(a), for allowable capital expenditure with an estimated effective life as at the date the expenditure was incurred of ten years or more,  $1/10^{\text{th}}$  of the amount of the allowable capital expenditure incurred during the year, commencing in the year that allowable capital expenditure was incurred and ending in the year when that expenditure has been fully deducted; and
- (b) for allowable capital expenditure with an estimated effective life as at the date the expenditure was incurred of less than ten years, there shall be established a pool of expenditure, to which shall be added allowable capital expenditure on such assets each year and from which shall be deducted —
  - (i) the amount of any deductions allowed against the amount of the pool for that year; and
  - (ii) the receipts, if any, from the sale or disposal of any assets forming part of the amount of the pool during the year,

and the deduction allowable each year shall be 25% of the amount of the pool at the end of that year.”; and

- (b) in Subsection (4) by repealing Paragraph (a) and replacing it with the following:—

“(a) the estimated remaining life of production of a resource project is less than ten years, the deduction calculated under Subsection (1)(a), both for expenditure incurred in that year of income and for expenditure incurred in earlier years of income shall be calculated by using such lesser divider than ten as would result in the undeducted balance of the allowable capital expenditure being deducted over the remaining life of the resource project; and”.

**23. DEDUCTION OR INCOME IN RESPECT OF DISPOSAL OR LOSS OF PROPERTY (AMENDMENT OF SECTION 155G).**

Section 155G of the Principal Act is amended in Subsection (4) —

- (a) by repealing the words “capital expenditure of that taxpayer from a resource project” and replacing them with the following —

“capital expenditure of the taxpayer in relation to a resource project”; and



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- (b) by repealing the words “exceeds the remaining allowable capital expenditure” and replacing them with the following :-

“exceeds the undeducted balance of allowable capital expenditure”.

**24. IMMEDIATE DEDUCTION FOR CERTAIN CAPITAL ITEMS  
(AMENDMENT OF SECTION 155I).**

Section 155I of the Principal Act is amended by repealing Subsection (1) and replacing it by the following :-

“(1) Where capital items with a cost not exceeding K1,000.00 per item are acquired in relation to a resource project, a deduction is allowable in the year of income for the full cost of those items.”.

**25. ADJUSTMENT OF DEDUCTIONS ON DISPOSAL OF RIGHT OR  
INFORMATION (AMENDMENT OF SECTION 155L).**

Section 155L of the Principal Act is amended -

- (a) in Subsection (1), Paragraphs (a) and (b), by adding after the words (occurring in each Paragraph) “resource project” the following :-

“or resource right”; and

- (b) in Subsection (3)(b)(iii), by adding after the words “resource project or projects” the following :-

“or resource right or rights”.

**26. ADDITIONAL DEDUCTION FOR EXPLORATION EXPENDITURE  
INCURRED OUTSIDE THE RESOURCE PROJECT (AMENDMENT OF  
SECTION 155N).**

Section 155N of the Principal Act is amended by repealing Subsection (4) and replacing it with the following :-

“(4) Where a taxpayer elects to add exploration expenditure incurred within an exploration licence area to the pool established under this Section, he may subsequently elect to re-transfer that exploration expenditure to any resource development licence drawn from that exploration licence area, subject to the following conditions -

- (a) an election to re-transfer expenditure from the exploration pool to any one resource development licence may only be made once in respect of that resource development licence; and

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- (b) the election shall be made on or prior to the date of lodgement of the first tax return in relation to that resource development licence; and
- (c) the amount re-transferred may not exceed the lesser of—
  - (i) the amount or amounts originally added to the exploration pool from that exploration licence, less any deductions, calculated on a proportionate basis, allowed in respect of that amount or amounts under Subsection (3); or,
  - (ii) the remaining amount of exploration expenditure in that pool.

"(5) The pool of expenditure available for deduction under this Section shall be reduced by the amount of any expenditure re-transferred under Subsection (4)."

**27. NEW SECTION 155S.**

The Principal Act is amended by inserting, immediately after Section 155R the following new subsection :—

**"155S. PARTNERSHIPS.**

Where all or part of a resource project is constituted by a partnership, for the purposes of this Act that partnership may elect to be deemed to be an unincorporated joint venture. Where it makes that election, it will not be required to prepare and lodge partnership returns, but will be required to prepare and lodge the joint venture financial statements required by Section 155O."

**28. APPLICATION (AMENDMENT OF SECTION 156).**

Section 156 of the Principal Act is amended in Subsection (1) by repealing the words "a mining lease or a special mining lease issued under the provisions of the *Mining Act 1992*" and replacing them with the following :—

"or a mining development licence".

**29. NEW SECTION 156C.**

The Principal Act is amended by inserting, immediately after Section 156B the following new section :—

**"156C. ADDITIONAL ALLOWABLE EXPLORATION EXPENDITURE.**

Where at a particular time a taxpayer ceases to have an interest in a mining project consequent upon—

- (a) the surrender, cancellation or expiry of a mining development licence; or

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- (b) the disposal or abandonment by the taxpayer of the whole of its interest in a mining project, and immediately before such cessation, disposal or abandonment a taxpayer had residual exploration expenditure in relation to that mining project, the Commissioner General may at any time, in his absolute discretion, allocate that residual exploration expenditure (other than any amount transferred by the taxpayer to another person pursuant to Section 155L) –
- (c) if the taxpayer or a related corporation has a beneficial interest in any other mining project from which the taxpayer or the related corporation is deriving assessable income from mining, to that mining project or those mining projects, as the case may be, in such proportions as the Commissioner General considers reasonable; or
- (d) in any other case, to any mining project carried on by the taxpayer or by a related corporation pursuant to any mining development licence issued within 20 years from the date of such cessation or abandonment, and following the allocation that amount of residual exploration expenditure shall become allowable exploration expenditure of the taxpayer or the related corporation, as the case may be, in relation to the mining project to which they were allocated (other than for the purposes of Subdivision E), with effect from the date of allocation.”.

**30. ADDITIONAL PROVISIONS, ALLOWABLE EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 157B).**

Section 157B of the Principal Act is amended –

- (a) by inserting, immediately before Subsection (1) the following new Subsection (1A) :-

“(1A) The allowable exploration expenditure of a taxpayer in relation to a petroleum exploration licence shall include –

- (a) expenditure by the taxpayer for exploration activities, wherever carried out, which are certified (and to the extent to which they are so certified) by the Departmental Head of the Department responsible for petroleum exploration to be for the purpose of delineating a petroleum deposit within a petroleum exploration licence referred to in Sections 155A(2)(i) and 155A(2)(ii) in relation to that petroleum project, but excluding expenditure incurred in acquiring an interest in a petroleum right; and

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(b) expenditure which is incurred by the taxpayer for exploration activities in the area of a petroleum exploration licence or development licence adjacent to a petroleum exploration licence referred to in Sections 155A(2)(i) and 155A(2)(ii) in relation to that petroleum project where the exploration activities are certified (and to the extent to which they are so certified) by the Departmental Head of the Department responsible for petroleum exploration to be for the purpose of proving or disproving the existence or extent of a commercially exploitable petroleum pool which might be developed in a co-ordinated development with a petroleum pool or pools wholly or partly underlying such petroleum exploration licence, but excluding expenditure incurred in acquiring an interest in a petroleum right.”; and

(b) in Subsection (1) by repealing the words “A taxpayer may elect, within two months following the end of the year after the date of commencement of commercial operation of a petroleum project” and replacing them with the following :-

“A taxpayer may elect at any time on or prior to the date of lodgement of the first tax return of the taxpayer in relation to a petroleum project”.

**31. ADDITIONAL PROVISIONS, ALLOWABLE CAPITAL EXPENDITURE (AMENDMENT OF SECTION 157C).**

Section 157C of the Principal Act is amended --

(a) in Subsection (1) --

(i) by repealing the word “additional”; and

(ii) by repealing the words “is the expenditure of a capital nature” and replacing them with the following :-

“includes the expenditure of a capital nature”; and

(b) in Subsection (1)(d), by repealing the words “petroleum prospecting licence or retention licence” and replacing them with the following :-

“petroleum exploration licence”; and

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(c) in Subsection (3)(a) by repealing Paragraph (i) and replacing it with the following :-

“(i) the surrender, cancellation or expiry of a petroleum development licence; or”.

**32. ADJUSTMENTS PURSUANT TO REDETERMINATIONS  
(AMENDMENT OF SECTION 157E).**

Section 157E of the Principal Act is amended :-

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

“(1) Notwithstanding the provisions of this Division and Division 3, where, pursuant to a redetermination applying to a petroleum project or a petroleum exploration licence, a holder of a petroleum right (in this Section called the "compensatee") is entitled to receive compensation (whether in cash or kind or by way of change in lifting entitlements or by any other method) from one or more holders of other petroleum rights (in this Section called the "compensator") due to the compensatee having incurred more allowable exploration expenditure or allowable capital expenditure or expenditure which would have been allowable capital expenditure but for an election under Section 155F or operating expenses of that petroleum project or petroleum exploration licence or having derived less petroleum or income than the compensatee should have according to the results of the redetermination.”; and

(b) in Subsection (1)(a)(ii)(B)(2) by repealing the words “to the extent that the amount of that compensation exceeds the allowable capital expenditure” and replacing them with the following :-

“to the extent that the amount of that compensation exceeds the undeducted balance of allowable capital expenditure”; and

(c) in Subsection (3) by repealing the words “A coordinated development participant” and replacing them with the following :-

“A taxpayer”.

**33. NEW SECTION 157F.**

The Principal Act is amended by inserting after Section 157E the following new section :-

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**“157F. EFFECT OF CONVERSION OF A PETROLEUM PROJECT TO A DESIGNATED GAS PROJECT.**

(1) Where a petroleum project is converted to a designated gas project or part of a designated gas project pursuant to Section 158B, the petroleum project shall cease on its conversion date.

(2) Where a conversion date of a petroleum project occurs during a year of income the deductions of a taxpayer in respect of residual exploration expenditure pursuant to Section 155C and allowable capital expenditure pursuant to Section 155E in relation to that petroleum project for that year of income shall be ascertained in accordance with the following formula:—

$$D = M/12 \times AD$$

Where —

D = the allowable deduction under Section 155C or 155E of the taxpayer for that year of income in respect of such residual exploration expenditure or allowable capital expenditure;

M = the number of months from the start of that year of income to the conversion date;

AD = the allowable deduction that would have been available to the taxpayer under Section 155C or 155E for that year of income in relation to that petroleum project in the absence of this Subsection.”.

**34. CONVERSION OF PETROLEUM PROJECT TO DESIGNATED GAS PROJECT (REPEAL AND REPLACEMENT OF SECTION 158B).**

The Principal Act is amended by repealing Section 158B and replacing it with the following :—

“(1) A field that is part of a petroleum project shall, for all purposes of this Act, become and be treated as a designated gas project or part of a designated gas project on the conversion date in respect of that field.

“(2) The residual exploration expenditure and the undeducted balance of allowable capital expenditure of a taxpayer in relation to a field that is converted to a designated gas project pursuant to Subsection (1) shall become allowable exploration expenditure and allowable capital expenditure of the taxpayer in relation to that designated gas project and shall be deductible in accordance with this Section.

“(3) Subject to Subsection (4), in each year of income, the deduction available to a taxpayer in respect of residual exploration expenditure or allowable capital expenditure that becomes residual exploration expenditure or allowable capital expenditure in relation to a designated gas project pursuant to Subsection (2) shall be calculated on the same basis as the deduction would have been calculated had the field in respect of which the expenditure was originally incurred continued to be part of the petroleum project referred to in Subsection (1).

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"(4) In the year of income in which the conversion date occurs, the deduction available to a taxpayer in respect of residual exploration expenditure or allowable capital expenditure that becomes residual exploration expenditure or allowable capital expenditure in relation to a designated gas project pursuant to Subsection (2) shall be ascertained in accordance with the following formula:—

$$D = M/12 \times AD$$

Where—

D = the allowable deduction available to the taxpayer under this Section in relation to the designated project for that year of income in respect of such residual exploration expenditure or allowable capital expenditure;

M = the number of months from the conversion date to the end of the year of income;

AD = the allowable deduction that would have been available to the taxpayer under this Section for that year of income in relation to such residual exploration expenditure or allowable capital expenditure in the absence of this Subsection.”.

**35. ADDITIONAL PROVISIONS, ALLOWABLE EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 158C).**

Section 158C of the Principal Act is amended by repealing Subsection (1) and replacing it with the following —

“(1) The allowable exploration expenditure of a taxpayer in relation to a designated gas project shall include —

- (a) expenditure by the taxpayer for exploration activities, wherever carried out, which are certified (and to the extent to which they are so certified) by the Departmental Head of the Department responsible for petroleum exploration to be for the purpose of delineating a petroleum deposit within a petroleum exploration licence referred to in Subparagraphs 155A(2)(i) and 155A(2)(ii) in relation to that designated gas project, but excluding expenditure incurred in acquiring an interest in a petroleum right; and
- (b) expenditure which is incurred by the taxpayer for exploration activities in the area of a petroleum exploration licence or a development licence adjacent to a petroleum exploration licence referred to in Subparagraphs 155A(2)(i) and 155A(2)(ii) in relation to that designated gas project where the exploration activities are certified (and to the extent to which they are so certified) by the Departmental Head of the Department responsible for petroleum exploration to be for the purpose of proving or disproving the existence or extent of a commercially exploitable

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petroleum pool which might be developed in a co-ordinated development with a petroleum pool or pools wholly or partly underlying such petroleum exploration licence, but excluding expenditure incurred in acquiring an interest in a petroleum right; and

- (c) residual exploration expenditure of the taxpayer allocated to the designated gas project under Subsections (2) or (3) respectively; and
- (d) any other expenditure which is classified as allowable exploration expenditure in relation to the designated gas project in the gas agreement in respect of that designated gas project.”.

**36. ADDITIONAL PROVISIONS, ALLOWABLE CAPITAL EXPENDITURE (AMENDMENT OF SECTION 158D).**

Section 158D of the Principal Act is amended in Subsection (1)(d) by repealing the words “petroleum prospecting licence or retention licence” and replacing them with the following :-

“petroleum exploration licence”.

**37. REPEAL AND REPLACEMENT OF SECTION 158G.**

The Principal Act is amended by repealing Section 158G and replacing it with the following :-

**“158G. PETROLEUM USED IN GAS OPERATIONS.**

This section applies equally to designated gas projects and petroleum used in gas operations, as Section 157D applies to petroleum projects and petroleum used in petroleum operations and that Section shall be read and construed for this purpose as if it referred to designated gas projects and gas operations.”.

**38. REPEAL AND REPLACEMENT OF SECTION 158H.**

The Principal Act is amended by repealing Section 158H and replacing them with the following :-

**“158H. ADJUSTMENTS PURSUANT TO REDETERMINATIONS.**

This section applies equally to redeterminations in respect of designated gas projects and gas operations, as Section 157E applies to redeterminations in respect of petroleum projects and petroleum operations and that Section shall be read and construed for this purpose as if it referred to designated gas projects and gas operations.”.



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**39. REPEAL AND REPLACEMENT OF SECTION 158I.**

The Principal Act is amended by repealing Section 158I and replacing it with the following :-

**"158I. APPORTIONMENT OF INCOME AND EXPENDITURE.**

(1) In this section -

"pool" means a porous and permeable under-ground formation containing an individual and separate natural accumulation of producible hydrocarbons consisting in part of oil and/or gas which is confined by impermeable rock or water barriers and is characterised by a single natural pressure system, and is otherwise known as a reservoir.

"(2) If a pool is discovered in a field, which is part of a designated gas project and that pool does not exceed the prescribed ratio of gas production to oil production, then income from the sale of petroleum produced from that pool shall be assessable income from petroleum operations.

"(3) If a petroleum project converts to a designated gas project pursuant to Section 158B and one or more of the fields in that petroleum project do not exceed the prescribed ratio of gas production to oil production, then income from the sale of petroleum produced from that field or those fields shall be assessable income from petroleum operations.

"(4) Where, pursuant to Subsections (2) or (3), a taxpayer derives assessable income from petroleum operations from a designated gas project, the taxable income from petroleum operations or gas operations, as the case may be, in respect of that designated gas project shall be determined as follows :-

- (a) to the extent that deductions, including those for residual exploration expenditure, allowable capital expenditure and operating expenditure can be identified as relating specifically to the derivation of assessable income from petroleum operations, they shall be deductible against that petroleum income; and
- (b) to the extent that deductions, including those for residual exploration expenditure, allowable capital expenditure and operating expenditure can be identified as relating specifically to the derivation of assessable income from gas operations, they shall be deductible against assessable income from those gas operations; and
- (c) the sum of all other deductions shall be apportioned between assessable income from petroleum operations and assessable income from gas operations, in the same proportion that assessable income from petroleum operations and assessable income from gas operations bears to the total sum of income derived by the taxpayer from that designated gas project in that year of income."

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40. **INTERPRETATION (AMENDMENT OF SECTION 159A).**

Section 159A of the Principal Act is amended –

- (a) by repealing the definition of “accumulation rate X” and replacing it with the following :-

“accumulation rate X” means –

- (a) the rate of 15% per annum; or  
(b) if the taxpayer makes an election under Subsection (5), the sum of the percentage rate of inflation for the year of income in the United States of America, as measured by the Producer Price Index of the United States of America, plus 12%;” and

- (b) by repealing the definition of “accumulation rate Y” and replacing it with the following :-

“accumulation rate Y” means –

- (a) the rate of 20% per annum; or  
(b) if the taxpayer makes an election under Subsection (5), the sum of the percentage rate of inflation for the year of income in the United States of America, as measured by the Producer Price Index of the United States of America, plus 17%;” and

- (c) in Paragraph (c) of the definition of “project deductions” by inserting, immediately before the figure “157B(6)” the following :-

“155N”;

- (d) in Paragraph (m) of the definition of “project deductions” by inserting, immediately after the word “paid”, the following :-

“or payable”; and

- (e) by inserting after Subsection (4) the following new subsection :-

“(5) A taxpayer who carries on resource operations may, on or before the date of the first lodgement of a tax return by the taxpayer in relation to that resource project, elect, by notice in writing to the Commissioner General, to have accumulation rate X and accumulation rate Y determined in accordance with paragraph (b) of the definitions of “accumulation rate X” and “accumulation rate Y” in Subsection (1), and the election once made shall apply to all net cash receipts from the resource project in that year of income and all subsequent years of income.

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**41. ACCUMULATED VALUE OF NET PROJECT RECEIPTS  
(AMENDMENT OF SECTION 159B).**

Section 159B of the Principal Act is amended –

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

"(a) for resource projects –

(i) in existence on 31 December 2000, the accumulated value of net project receipts calculated under the old APT provisions, which shall, for those resource projects which on that date were not subject to additional profits tax, be the accumulated value of net project receipts as they would have been had those resource projects been subject to the provisions of the previous Division 10 – Subdivision D, as in force until 31 December 2000; and

(ii) other than those referred to in Paragraph (i), in respect of the year in which the uplift commencement date of the taxpayer occurs and all preceding years of income - the sum of the net project receipts for the year of income plus the net project receipts for all preceding years of income;" and

(b) in Subsection (3), Paragraphs (a) and (b) by repealing the words "for the purpose of calculating the accumulated value of net project receipts in respect of all subsequent years of income" occurring at the end of each Paragraph.

**42. RELATED CORPORATIONS (AMENDMENT OF SECTION 159D).**

Section 159D of the Principal Act is amended in Subsection (5)(a) by repealing the word "gas" and replacing it with the following :-

"resource".

**43. CONSEQUENCES OF A PETROLEUM PROJECT CONVERTING TO A GAS PROJECT (AMENDMENT OF SECTION 159F).**

Section 159F of the Principal Act is amended –

(a) in Paragraph (a) by adding, after the words ""accumulated value of net project receipts" the following :-

"on that date"; and

(b) in Paragraph (b) by adding after the words "from petroleum production to gas production" the following: –

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“and which, for the avoidance of doubt, may include such costs incurred prior to the conversion date.”

(c) by adding at the end of Paragraph (c) the following :-

“as calculated under the provisions in force until 31 December 2000, until that date and as calculated under the provisions in force from 1 January 2001 subsequent to that date.”

**44. MINING LEVY (AMENDMENT OF SECTION 160).**

Section 160 of the Principal Act is amended -

(a) by repealing the words “Subject to this Act” and replacing them with the following :-

“(1) Subject to this Act”; and

(b) by inserting after the words “mining operations carried on in Papua New Guinea” the following :-

“who, on 31<sup>st</sup> December 2000, held a mining development licence”; and

(c) by repealing the word “shall” and replacing it with the following :-

“shall, subject to Subsection (2),”; and

(d) by inserting the following new subsection :-

“(2) The mining levy calculated under Subsection (1) shall be reduced as follows -

- (a) for imports and purchases made during the calendar year 2002, by 25%; and
- (b) for imports and purchases made during the calendar year 2003, by 50%; and
- (c) for imports and purchases made during the calendar year 2004, by 75%; and
- (d) for imports and purchases made during the calendar year 2005 and for all subsequent years, by 100%.”.

**45. PAYMENT OF MINING LEVY (AMENDMENT OF SECTION 160A).**

Section 160A of the Principal Act is amended by inserting at the end of that section the following :-

“Penalty: For a breach of this section, a fine of not less than K500.00 and not exceeding K5,000.00 or imprisonment for a term not exceeding six months.”.

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**46. NEW SUBDIVISION III.10.G.**

The Principal Act is amended by inserting immediately after Section 160D the following new subdivision :-

*"Subdivision G.- Tax Credits for Royalty and Development Levy paid.*

**"161. INTERPRETATION.**

For the purposes of this subdivision, unless the contrary intention appears -

“development levy” means development levy payable pursuant to Section 160 of the *Oil and Gas Act 1998*;

“royalty” means royalty payable pursuant to Section 159 of the *Oil and Gas Act 1998*;

“wellhead value” means the wellhead value of petroleum and/or gas as prescribed under the provisions of Section 159 of the *Oil and Gas Act 1998*.

**"161A. TAX CREDIT ALLOWABLE.**

(1) Where the total of royalty and development levy payable by a petroleum or designated gas project for a year of income exceeds 2% of the wellhead value of petroleum and/or gas sales during that year, the amount of the excess is deemed to be income tax paid in respect of that year of income.

(2) If in any year the total of income tax deemed to be paid under this Subsection and Subsection (1) exceeds the amount of income tax payable in respect of that year, the amount of the excess shall be deemed to be income tax paid in respect of the next succeeding year of income.”.

**47. TAXABLE INCOME OF SHIPOWNER OR CHARTERER (AMENDMENT OF SECTION 190).**

Section 190 of the Principal Act is amended -

(a) by inserting at the beginning of that section the following :-

“(1)”; and

(b) by inserting at the end of that section the following new subsection :-

“(2) The Commissioner General may exempt in whole or in part from liability under Subsection (1) to pay income tax in Papua New Guinea, any person, or any class or classes of persons, being resident in a country or territory outside Papua New Guinea, if and so far as the Commissioner General is satisfied that in corresponding circumstances a like person, or a like class or classes of persons, being resident in Papua New Guinea, are not liable to or are exempt from income tax imposed by the laws of that country or territory.”.

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**48. LIABILITY OF AGENT (AMENDMENT OF SECTION 196F).**

Section 196F of the Principal Act is amended –

- (a) in Subsection (2), by repealing the words “a fine of not less than K100.00 and not exceeding K1000.00” and replacing them by the following:-  
“a fine of not less than K500.00 and not exceeding K5,000.00.”; and
- (b) in Subsection (8), by repealing the words “a fine of not less than K400.00 and not exceeding K2000.00 or imprisonment for a period not exceeding six months, and in the case of a corporate person, a fine of not less than K400.00 and not exceeding K10,000.00” and replacing them with the following:-  
“a fine of not less than K500.00 and not exceeding K5,000.00 or imprisonment for a period not exceeding six months, and in the case of a corporate person, a fine of not less than K1,000.00 and not exceeding K50,000.00.”; and
- (c) in Subsection (9), by repealing the words “a fine not exceeding K500.00” and replacing them with the following: -  
“a fine of not less than K500.00 and not exceeding K5,000.00.”; and
- (d) in Subsection (18), by repealing the words “a fine of not less than K400.00 and not more than K2000.00” and replacing them by the following: -  
“a fine of not less than K500.00 and not exceeding K5,000.00.”.

**49. PAYMENT TO COMMISSIONER GENERAL (AMENDMENT OF SECTION 196V).**

Section 196V of the Principal Act is amended –

- (a) in Subsection (3), by repealing the words “A fine not exceeding K1,000.00” and replacing them by with following:-  
“A fine of not less than K1,000.00 and not exceeding K50,000.00”; and
- (b) in Subsection (4), by repealing the words “A fine not exceeding K200.00” and replacing them by the following:-  
“A fine of not less than K500.00 and not exceeding K5,000.00.”.

**50. LIABILITY OF PERSON WHO FAILS TO MAKE DEDUCTION, ETC (AMENDMENT OF SECTION 196W).**

Section 196W of the Principal Act is amended by inserting at the end of that section the following new subsection:-

- “(8) A person, who breaches a provision of this section, is guilty of an offence.  
"Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”.

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**51. NEW SECTION 219D.**

The Principal Act is amended by inserting after Section 219C the following new section :-

**"219D. CREDITS IN RESPECT OF BANK COMMUNITY SERVICE OBLIGATIONS.**

(1) In this Section -

“agency” means a banking agency through which banking facilities are provided to the public, not being a branch or sub-branch;

“area 1” means an area, as prescribed, adequately supplied with banking facilities;

“area 2” means an area, as prescribed, moderately supplied with banking facilities;

“area 3” means an area, not falling within area 1 or 2, inadequately supplied with banking facilities;

“ATM” means an automated teller machine dispensing cash, as used in banking;

“bank” means a bank licensed under the *Banks and Financial Institutions Act 2000* and providing a basic banking product;

“basic banking product” means a banking service being the provision of account facilities to any customer desiring such services with the following characteristics -

- (a) the customer is able to make deposits into, or withdrawals from, the account;
- (b) the customer is allowed 52 free transactions per year, transaction fees may be charged only for transactions in excess of that figure; and
- (c) the customer is allowed access to electronic banking through EFTPOS or ATM machines;
- (d) there is no minimum account balance required; and
- (e) there are no other restrictions imposed on the account;

“branch” means a branch of a bank providing full banking facilities to the public;

“CPI” means the annual consumer price index for Papua New Guinea published by the National Statistician appointed under the *Statistical Services Act 1980*;

“EFTPOS” means a machine used for electronic fund transfers at point of sale, enabling transfers electronically from one bank account into another bank account;

“sub-branch” means a branch of a bank not providing full banking facilities.

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(2) Where a bank, in a year of income prior to the year 2012, incurs expenditure for the provision of banking services outside area 1, that expenditure is deemed to be, to the extent set out in Subsections (3), (4), (5) and (6), income tax paid in respect of the tax liability of that taxpayer for that year of income.

(3) Subject to Subsection (5), for banking services provided in area 2 –

- (a) for each branch – K175,000.00 as calculated;
- (b) for each sub-branch – K100,000.00 as calculated;

(4) Subject to Subsection (5), for banking services provided in area 3 –

- (a) for each branch – K350,000.00 as calculated;
- (b) for each sub-branch – K200,000.00 as calculated;
- (c) for each agency – K25,000.00 as calculated;
- (d) for the purchase of a new ATM, not to be located within or adjacent to a branch or sub-branch – K30,000.00;
- (e) for the purchase of a new EFTPOS, not to be located within or adjacent to a branch or sub-branch – K1,000.00;
- (f) for the provision of an ATM service, not located within or adjacent to a branch or sub-branch – K5,000.00 as calculated;
- (g) for the provision of an EFTPOS service, not located within or adjacent to a branch or sub-branch – K500.00 as calculated;

(5) in Subsections (3) and (4). “as calculated” means –

- (a) in the case of a bank that provides a service or facility for the full year of income, the amounts set out in those Sections; or
- (b) in the case of a bank that provides a service or facility for a period being less than a full year of income, an amount, being a proportion of the amounts set out in those Sections, proportionate to the amount of time during which the service or facility was provided;

(6) Notwithstanding the provisions of Subsections (3) and (4) –

- (a) for a branch or sub-branch, expenditure on the provision of banking services is deemed to be income tax paid only if the relevant branch or sub-branch provides a basic banking product;



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- (b) expenditure on the provision of banking services is deemed to be income tax paid only to the extent that such expenditure, as calculated by the provisions of those Subsections, exceeds K1,000,000.00 in a year of income; and
- (c) the amounts set out in Subsections (3) and (4) shall be increased, at the beginning of each year of income commencing in 2003, by the CPI for the previous year of income.

(7) If in any year the amount deemed to be income tax paid by a taxpayer under this Section (including, for the avoidance of doubt, an amount deemed to be income tax paid in a year of income under the provisions of this Subsection) exceeds the amount of income tax payable by that taxpayer for that year, the amount of the excess shall be deemed to be income tax paid by that taxpayer in respect of the next succeeding year of income."

**52. AMENDMENT OF ASSESSMENTS (AMENDMENT OF SECTION 232).**  
Section 232(10) of the Principal Act is amended by repealing the words and figures "163AT, 163T or 164R".

**53. REFUND OF TAXES OVERPAID (AMENDMENT OF SECTION 234).**  
Section 234 of the Principal Act is amended –  
(a) by repealing Paragraph (d); and  
(b) by inserting immediately after Paragraph (c) the words –  
"and the Commissioner General may-".

**54. OBJECTIONS (AMENDMENT OF SECTION 245).**  
Section 245 of the Principal Act is amended repealing Subsection (2) and replacing it with the following:-

"(2) Where an assessment has been amended in any particular, the right of a taxpayer to object against the amended assessment is limited to a right to object against alterations or additions in respect of or matters relating to that particular."

**55. INTERPRETATION (AMENDMENT OF SECTION 258A).**  
Section 258A of the Principal Act is amended –  
(a) in Paragraph (c), by repealing the words and figures "Section 163ZC or 165C" and replacing them with the following –  
"Division III.10E"; and

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- (b) in Paragraph (g), by repealing the words and figures "Section 163ZZA" and replacing them with the following –  
"Division III.10F".

56. **TEMPORARY BUSINESS (AMENDMENT OF SECTION 267).**  
Section 267(2) of the Principal Act is amended by repealing the words and figures "K400.00 and not exceeding K2,000.00" and replacing them with the following:-  
"K500.00 and not exceeding K5,000.00."
57. **LIQUIDATORS ETC (AMENDMENT OF SECTION 269).**  
Section 269(4) of the Principal Act is amended by repealing the words and figures "K100.00 and not exceeding K500.00" and replacing them with the following:-  
"K500.00 and not exceeding K5,000.00."
58. **COMMISSIONER GENERAL MAY COLLECT TAX FROM PERSON OWING MONEY TO TAXPAYER (AMENDMENT OF SECTION 272).**  
Section 272(2A) of the Principal Act is amended by repealing the words and figures "K400.00 and not exceeding K1,000.00" and replacing them with the following:-  
"a fine of not less than K500.00 and not exceeding K5,000.00."
59. **REGISTRATION OF PAYING AUTHORITIES (AMENDMENT OF SECTION 277).**  
Section 277(4) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-  
"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00."
60. **DUTIES OF PAYING AUTHORITY (AMENDMENT OF SECTION 280).**  
Section 280(7) of the Principal Act is amended by repealing the words "a fine of not less than K500.00 and not more than K2,000.00 or imprisonment for a term not exceeding six months, and the penalty for any other offence under this section is a fine of not less than K100.00 and not more than K50,000.00" and replacing them with the following:-  
"a fine of not less than K500.00 and not more than K5,000.00 or imprisonment for a term not exceeding six months, and the penalty for any other offence under this Section is a fine of not less than K500.00 and not more than K5,000.00."
61. **NIL DEDUCTION AUTHORITY (AMENDMENT OF SECTION 289).**  
Section 289(6) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-  
"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00."

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**62. REVOCATION OF CERTIFICATES (AMENDMENT OF SECTION 290).**

Section 290(2) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**63. OFFENCES (AMENDMENT OF SECTION 292).**

Section 292 of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00 or both.”.

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

Section 299D(1) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“A fine of not less than K500.00 and not exceeding K5,000.00.”.

**65. VARIATION OF DEDUCTIONS (AMENDMENT OF SECTION 299E).**

Section 299E(4) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**66. CERTIFICATE OF EXEMPTION (AMENDMENT OF SECTION 299F).**

Section 299F of the Principal Act is amended –

(a) in Subsection (3), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00”; and

(b) in Subsection (4), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”.

**67. GROUP EMPLOYERS (AMENDMENT OF SECTION 299G).**

Section 299G(10) of the Principal Act is amended by the repeal of the words “a fine of not less than K500.00 and not exceeding K2,000.00 or imprisonment for a term not exceeding six months, and the penalty for any other offence under this Section is a fine of not less than K200.00 and not exceeding K2,000.00” and replacing them with the following:-

“a fine of not less than K500.00 and not exceeding K5,000.00 or imprisonment for a term not exceeding six months, and the penalty for any other offence under this Section is a fine of not less than K500.00 and not exceeding K5,000.00.”.

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**68. POWERS OF COMMISSIONER GENERAL IN RELATION TO CERTIFICATES (AMENDMENT OF SECTION 299I).**

Section 299I of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**69. OFFENCES (AMENDMENT OF SECTION 299N).**

Section 299N of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00 or imprisonment for six months.”.

**70. DEDUCTIONS FROM DIVIDENDS (AMENDMENT OF SECTION 311C).**

Section 311C(6) of the Principal Act is amended by the repeal of the words “a fine of not less than K400.00 and not more than K1,000.00” and replacing them with the following:-

“a fine of not less than K500.00 and not exceeding K5,000.00.”.

**71. DEDUCTIONS TO BE FORWARDED TO THE COMMISSIONER GENERAL (AMENDMENT OF SECTION 311E).**

Section 311E of the Principal Act is amended –

(a) in Subsection (2), by repealing the words “a fine of not less than K400.00 and not exceeding K1,000.00” and replacing them by the following:-

“a fine of not less than K500.00 and not exceeding K5,000.00”; and

(b) in Subsection (3), by repealing the words “a fine of not less than K100.00 and not exceeding K500.00” and replacing them with the following:-

“a fine of not less than K500.00 and not exceeding K5,000.00.”.

**72. DIVIDENDS NOT IN MONEY NOT TO BE PAID UNTIL PAYMENT MADE TO COMMISSIONER GENERAL (AMENDMENT OF SECTION 311F).**

Section 311F(4) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**73. OBJECT (AMENDMENT OF SECTION 311AM).**

Section 311AM of the Principal Act is amended by repealing the words and figures “Subdivisions III.10CA or III.10C or Divisions III.10A or III.10B apply” and replacing them with the following :-

“Division III.10 applies.”.

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**74. INTERPRETATION (AMENDMENT OF SECTION 311AN).**

Section 311AN of the Principal Act is amended, in the definition "tax" by repealing the words and figures "Subdivisions III.10CA or Divisions III.10A or III.10B apply" and replacing them with the following :-

"Division III.10 applies,".

**75. TAXPAYER TO ESTIMATE INCOME (AMENDMENT OF SECTION 311AO).**

Section 311AO(1) of the Principal Act is amended by repealing the words and figures "Subdivisions III.10CA or III.10C or Divisions III.10A or III.10B apply" and replacing them with the following -

"Division III.10 applies,".

**76. DEDUCTIONS FROM GROSS INCOME (AMENDMENT OF SECTION 312C).**

Section 312C(2) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.".

**77. DEDUCTIONS TO BE FORWARDED TO THE COMMISSIONER GENERAL (AMENDMENT OF SECTION 312E).**

Section 312E of the Principal Act is amended -

(a) in Subsection (3), by repealing the penalty clause and replacing it with the following:-

"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00 or imprisonment for a period not exceeding six months."; and

(b) in Subsection (4), by repealing the penalty clause and replacing it with the following:-

"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.".

**78. DEDUCTION FROM GROSS INCOME (AMENDMENT OF SECTION 312AC).**

Section 312AC(3) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.".

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**79. DEDUCTIONS TO BE FORWARDED TO THE COMMISSIONER GENERAL (AMENDMENT OF SECTION 312AE).**

Section 312AE of the Principal Act is amended –

(a) in Subsection (3), by repealing the words “a fine not exceeding K2,500.00 or” and replacing them with the following:-

“a fine of not less than K500.00 and not exceeding K5,000.00 or”; and

(b) in Subsection (4), by repealing the words “a fine not exceeding K500.00 or” and replacing them by the following:-

“a fine of not less than K500.00 and not exceeding K5,000.00 or”.

**80. FAILURE TO FURNISH RETURNS OR INFORMATION (AMENDMENT OF SECTION 313).**

Section 313(1) of the Principal Act is amended by repealing the words “Not less than K100.00 and not exceeding K2,000.00 plus K50.00” and replacing them with the following:-

“A fine of not less than K500.00 and not exceeding K5,000.00 plus K50.00.”.

**81. REFUSAL TO GIVE EVIDENCE (AMENDMENT OF SECTION 314).**

Section 314 of the Principal Act is amended by repealing of the words “Not less than K200.00 and not more than K4,000.00 plus K50.00” and replacing by the following:-

“A fine of not less than K500.00 and not exceeding K5,000.00 plus K50.00.”.

**82. ORDER TO COMPLY WITH REQUIREMENT (AMENDMENT OF SECTION 315).**

Section 315(1) of the Principal Act is amended by repealing the words “a fine of not less than K200.00 and not exceeding K4,000.00 plus K50.00” and replacing them with the following:-

“A fine of not less than K500.00 and not exceeding K5,000.00 plus K50.00.”.

**83. FALSE RETURNS OR STATEMENTS (AMENDMENT OF SECTION 317).**

Section 317 of the Principal Act is amended by repealing the words “Not less than K50.00 and not exceeding K500.00 and” and replacing them with the following:-

“A fine of not less than K1,000.00 and not exceeding K5,000.00 and”.

**84. FAILURE TO SIGN OR FALSE CERTIFICATE (AMENDMENT OF SECTION 318).**

Section 318(1) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”.

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- 85. UNDERSTATING INCOME (AMENDMENT OF SECTION 320).**  
Section 320(1) of the Principal Act is amended by repealing the words "Not less than K500.00 or more than K10,000.00 and" and replacing them with the following:-  
"A fine of not less than K1,000.00 and not exceeding K50,000.00 and".
- 86. FRAUDULENT AVOIDANCE OF TAX (AMENDMENT OF SECTION 321).**  
Section 321(1) of the Principal Act is amended by repealing the words "Not less than K500.00 or more than K10,000.00 and" and replacing them with the following:-  
"A fine of not less than K1,000.00 and not exceeding K50,000.00 and".
- 87. OBSTRUCTING OFFICERS (AMENDMENT OF SECTION 322).**  
Section 322 of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-  
"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.".
- 88. CANCELLATION OF REGISTRATION OF TAX AGENT (AMENDMENT OF SECTION 348).**  
Section 348 of the Principal Act is amended –
- (a) in Subsection (8) by repealing the penalty clause and replacing it with the following:-  
"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00."; and
- (b) in Subsection (9) by repealing the penalty clause and replacing it with the following:-  
"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.".
- 89. UNREGISTERED TAX AGENTS NOT TO CHARGE FEES (AMENDMENT OF SECTION 349).**  
Section 349(1) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-  
"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.".
- 90. PREPARATION OF RETURNS, ETC., ON BEHALF OF REGISTERED TAX AGENT (AMENDMENT OF SECTION 351).**  
Section 351 of the Principal Act is amended –
- (a) in Subsection (1), by repealing the penalty clause and replacing it with the following:-  
"Penalty: A fine of not less than K500.00 and not exceeding K5,000.00."; and

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(b) in Subsection (2), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**91. ADVERTISING, ETC., BY PERSONS OTHER THAN REGISTERED TAX AGENTS (AMENDMENT OF SECTION 352).**

Section 352 of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**92. OFFENCES (AMENDMENT OF SECTION 354H).**

Section 354H of the Principal Act is amended –

(a) in Subsection (1), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”; and

(b) in Subsection (2), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00.”.

**93. DUTY TO OBTAIN COMPLIANCE CERTIFICATE (AMENDMENT OF SECTION 354M).**

Section 354M of the Principal Act is amended –

(a) in Subsection (2), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”; and

(b) in Subsection (6), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**94. DUTIES OF A PAYING AUTHORITY (AMENDMENT OF SECTION 354N).**

Section 354N of the Principal Act is amended –

(a) in Subsection (5), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”; and



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(b) in Subsection (7), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”; and

(c) in Subsection (9), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**95. REGISTRATION OF PAYING AUTHORITIES (AMENDMENT OF SECTION 354O).**

Section 354O(3) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**96. REVOCATION OF CERTIFICATES (AMENDMENT OF SECTION 354Q).**

Section 354Q(4) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**97. OFFENCES (AMENDMENT OF SECTION 354T).**

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

“Penalty: A fine of not less than K1,000.00 and not exceeding K50,000.00 or imprisonment for 12 months or both.”.

**98. TAXPAYER TO KEEP RECORDS (AMENDMENT OF SECTION 354X).**

Section 354X(2) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**99. PERSON PAYING ROYALTY TO NON-RESIDENT (AMENDMENT OF SECTION 357).**

Section 357 of the Principal Act is amended –

(a) in Subsection (4), by repealing the words “a fine of not less than K400.00 and not more than K2,000.00” and replacing them with the following:-

“a fine of not less than K500.00 and not exceeding K5,000.00”; and

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- (b) in Subsection (11), by repealing the words “a fine of not less than K400.00 and not exceeding K2,000.00 or imprisonment for a period not exceeding six months, or where the person is a company, K10,000.00” and replacing them with the following:-

“a fine of not less than K500.00 and not exceeding K5,000.00 or imprisonment for a period not exceeding six months, or where the person is a company, a fine of not less than K1,000.00 and not exceeding K50,000.00.”; and

- (c) in Subsection (12), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

**100. CONTRACTS OR ARRANGEMENTS TO EVADE TAX (AMENDMENT OF SECTION 361).**

Section 361(7) of the Principal Act is amended by repealing the penalty clause and replacing it with the following:-

“Penalty: In the case of a natural person - A fine of not less than K1,000.00 and not exceeding K50,000.00 and a term of imprisonment not exceeding five years; and

In the case of a company, - A fine of not less than K1,000.00 and not exceeding K50,000.00.”.

**101. TAXPAYER TO KEEP RECORDS (AMENDMENT OF SECTION 364).**

Section 364 of the Principal Act is amended –

- (a) in Subsection (1), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”; and

- (b) in Subsection (2), by repealing the penalty clause and replacing it with the following:-

“Penalty: A fine of not less than K500.00 and not exceeding K5,000.00.”.

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I hereby certify that the above is a fair print of the *Income Tax (Amendment) Act 2001* which has been made by the National Parliament.



*Clerk of the National Parliament.*

09 APR 2002

I hereby certify that the *Income Tax (Amendment) Act 2001* was made by the National Parliament on 5 December 2001.



*Speaker of the National Parliament.*

09 APR 2002