

No. 25 of 1977.

Income Tax (New Fiscal Year-Transitional Provisions) Act 1977.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 25 of 1977.

Income Tax (New Fiscal Year-Transitional Provisions) Act 1977.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Income Tax (New Fiscal Year-Transitional Provisions) Act 1977,

Being an Act to make provisions consequential on and or designed to facilitate the change in the fiscal year for income tax purposes made by the *Income Tax (New Fiscal Year) Act 1977*, with particular reference to the transitional period 1 July 1977-31 December 1978, to be incorporated and read as one with the *Income Tax Act 1959*, as amended by the *Income Tax (New Fiscal Year) Act 1977*.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act—

“**the fiscal year 1977**” means the period declared by Section 2 to be a fiscal year;

“**the fiscal year 1978**” means the period commencing on 1 January 1978 and ending on 31 December 1978;

“**the transitional period**” means the period of the fiscal years 1977 and 1978;

“**the unamended Income Tax Act**” means the *Income Tax Act 1959* as in force immediately before 28 April 1977 being the date on which the *Income Tax (New Fiscal Year) Act 1977* came into force.

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PART II. – THE SHORT FISCAL YEAR.

2. THE FISCAL YEAR 1977.

For the purposes of this Act and of the Principal Act, the period commencing on 1 July 1977 and ending on 31 December 1977 is a fiscal year.

PART III. – GENERAL PROVISIONS.

3. TRANSITIONAL YEARS OF INCOME OF COMPANIES.

(1) For the purposes of the application of the Principal Act to assessments for the fiscal years 1977 and 1978, the year of income of a company (other than a company in the capacity of a trustee)–

- (a) in relation to the fiscal year 1977, is–
 - (i) subject to Subparagraph (ii), the period commencing on 1 July 1976 and ending on 30 June 1977; or
 - (ii) if the company has adopted, under Section 12 of the unamended Income Tax Act, an accounting period in lieu of the fiscal year ending on 30 June 1977—that accounting period; and
- (b) in relation to the fiscal year 1978, is–
 - (i) subject to Subparagraph (ii), the period commencing on 1 January 1977 and ending on 31 December 1977; or
 - (ii) if the company adopts, under Subsection (2), an accounting period in lieu of the period referred to in Subparagraph (i)—the period of 12 months ending on the last day of that accounting period.

(2) For the purposes of this Act and of the Principal Act, a company (other than a company in the capacity of a trustee) may, with the leave of the Commissioner General and subject to such conditions as he imposes, adopt, in lieu of the period referred to in Subsection (1)(b)(i), an accounting period of 12 months ending on some date other than 31 December 1977.

4. CALCULATION OF COMPANY TAX FOR THE TRANSITIONAL PERIOD.

(1) Subject to Subsection (2), this section applies for the purpose of the application of the Principal Act to assessments of a company (other than a company in the capacity of a trustee) for the fiscal years 1977 and 1978.

(2) This section does not affect any other Act, or any agreement approved by any Act, so far as it makes provision in respect of the liability of a company for income tax.

(3) Subject to Subsections (6) and (7), the taxable income for the period that is, by virtue of Section 3(1)(a), the year of income of the company in relation to the fiscal year 1977 is an amount equal to 50% of the amount that would be the taxable income for that period if it were calculated in accordance with the unamended Income Tax Act.

(4) Subject to Subsections (6) and (7), the taxable income for the period that is, by virtue of Section 3(1)(b), the year of income of the company in relation to the fiscal year 1978 is–

- (a) in a case to which Section 3(1)(b)(i) applies—the sum of–

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- (i) an amount equal to 50% of the amount that would be the taxable income for the period commencing on 1 July 1976 and ending on 30 June 1977 if it were calculated in accordance with the unamended Income Tax Act., and
 - (ii) the amount of the taxable income derived during the period commencing on 1 July 1977 and ending on 31 December 1977, calculated in accordance with the Principal Act; and
- (b) in a case to which Section 3(1)(b)(ii) applies—the taxable income for the period referred to in that subparagraph, calculated in accordance with the Principal Act.

(5) Subsection (3) or (4) does not affect the operation of any conditions, otherwise applicable, that have been or may be imposed under—

- (a) Section 3(2); or
- (b) Section 12 of the unamended Income Tax Act; or
- (c) Section 12 of the Principal Act.

(6) If—

- (a) the company—
 - (i) has adopted, under Section 12 of the unamended Income Tax Act, a substituted accounting period; and
 - (ii) has not adopted, under Section 3(2), an accounting period in lieu of the period referred to in Section 3(1)(b)(i); and
- (b) the Commissioner General is of the opinion that the sum of—
 - (i) the amount of tax otherwise payable by the company in respect of the transitional period by virtue of Subsections (3) and (4); and
 - (ii) the amount of tax paid or payable by the company in respect of all previous years of tax,

is greater or less than it would have been if the accounting period referred to in Paragraph (a)(i) had not been adopted,

the Commissioner General may determine that the taxable income for the fiscal year 1977 or 1978, or for both of those fiscal years, calculated in accordance with Subsection (3) or (4) shall be reduced or increased accordingly.

(7) If the Chief Collector is of the opinion that, by reason of the adoption, under Section 3(2), of an accounting period by a company, the sum of—

- (a) the amount of tax otherwise payable by the company in respect of the transitional period by virtue of Subsections (3) and (4); and
- (b) the amount of tax paid or payable by the company in respect of all previous years of tax,

is greater or less than it would otherwise have been, the conditions on which the Commissioner General grants leave under Section 3(2) may include a condition that the taxable income of the company for the fiscal year 1977 or 1978, or both of those fiscal years, as calculated in accordance with Subsection (3) or (4) shall be reduced or increased accordingly.

5. CALCULATION OF TAX ON INDIVIDUALS FOR FISCAL YEAR 1977.

The amount of income tax payable by—

- (a) a taxpayer other than a company; or
- (b) a taxpayer that is a company in the capacity of a trustee,

in respect of income of the fiscal year 1977 is the amount calculated in accordance with the formula—

$$X = \frac{A \times B}{C}$$

where—

“A” = an amount that is equal to the amount of tax (after rebate) that would be payable in respect of the income of the period of 12 months ending on 30 June 1978 if the unamended Income Tax Act applied.

“B” = the amount of the taxable income derived during the fiscal year 1977.

“C” = the amount of the taxable income derived during the period of 12 months ending on 30 June 1978.

6. APPORTIONMENT OF TAXABLE INCOME OF INDIVIDUALS OVER THE TRANSITIONAL PERIOD.

Unless the Commissioner General is satisfied, from the return furnished in accordance with Section 223 of the Principal Act or otherwise, that some other apportionment is proper, the total taxable income derived during the transitional period by—

- (a) a taxpayer other than a company; or
- (b) a taxpayer that is a company in the capacity of a trustee,

shall be deemed, for the purposes of this Act and of the Principal Act, to have been derived in equal amounts over the periods—

- (c) commencing on 1 July 1977 and ending on 31 December 1977; and
- (d) commencing on 1 January 1978 and ending on 30 June 1978; and
- (e) commencing on 1 July 1978 and ending on 31 December 1978,

respectively.

7. ASSESSMENTS, ETC., OVER THE TRANSITIONAL PERIOD.

Separate assessments, and separate calculations of provisional tax, shall be made in respect of the fiscal year 1977 and the fiscal year 1978.

8. EFFECT OF OVERLAP PERIOD FOR COMPANIES.

(1) In this section, “**the overlap period**” means the period commencing on 1 January 1977 and ending on 30 June 1977 (being the period that by virtue of Section 3(1) may be taken into account either as part of the year of income for the fiscal year 1977 and as part of the year of income for the fiscal year 1978, or a part of each).

(2) Where in relation to the assessment of a company (other than a company in the capacity of a trustee) for a fiscal year the question arises, whether in calculating the length of any period expressed in, or by reference to, years of income (or substituted accounting periods) the overlap period should be treated as being part of the year of income—

(a) for the fiscal year 1977; or

(b) for the fiscal year 1978,

the Commissioner General shall decide the question in such a way as not to disadvantage the taxpayer by an increase or decrease of the actual length of the period.

PART IV. – SPECIFIC PROVISIONS AFFECTED.

9. MINIMUM TAXABLE INCOMES OF NON-PROFIT COMPANIES.

In relation to assessments for the fiscal year 1977, Section 11(2)(c) of the Principal Act applies as if the reference in Section 11(2) of that Act to the amount of K936.00 were a reference to the amount of K468.00.

10. MAXIMUM TAX LIABILITY OF NON-PROFIT COMPANIES.

In relation to assessments for the fiscal year 1977, Section 16 of the Principal Act applies as if the references in that section to the amounts of K2,808.00 and K936.00 were references to the amounts of K1,404.00 and K468.00 respectively.

11. TAX HOLIDAYS FOR CERTAIN CORPORATIONS.

In its application to the transitional period, Section 40B(5)(a) of the Principal Act shall be read as if for Subparagraph (ii) of that paragraph the following subparagraph were substituted:–

(ii) the average annual income derived by the taxpayer or the former proprietor of each such business, as the case may be, from that business over the three years of income,”.

12. TAX RETURNS BY INDIVIDUALS FOR THE TRANSITIONAL PERIOD.

(1) Notwithstanding anything in the Principal Act, in relation to the fiscal years 1977 and 1978 the return to be furnished, in accordance with Section 223 of that Act, by–

- (a) a taxpayer other than a company; or
- (b) a taxpayer that is a company in the capacity of a trustee,

shall be a single return in relation to the liability of the taxpayer for income tax in respect of the whole of the transitional period.

(2) If so required by the Commissioner General–

- (a) by notice in the National Gazette, in relation to all or any persons; or
- (b) by written notice to a person,

a single return referred to in Subsection (1) shall set out separately in relation to the fiscal year 1977 and to the fiscal year 1978–

- (c) the income derived by the person concerned during the respective years of income; and
- (d) any deductions claimed for the respective fiscal years.

13. TAX RETURNS BY COMPANIES FOR THE TRANSITIONAL PERIOD.

(1) In relation to a company other than—

- (a) a company in the capacity of a trustee; or
- (b) a company that has adopted, under Section 3(2), an accounting period in lieu of the period referred to in Section 3(1)(b)(i),

the returns that may be required under Section 223 of the Principal Act include separate returns in respect of—

- (c) the period that is, by virtue of Section 3(1)(a), the year of income for the fiscal year 1977; and
- (d) the period commencing on the day after the last day of the period referred to in Paragraph (c) and ending on 31 December 1977 as if it were a year of income.

(2) For the purposes of and for purposes related to Section 223 of the Principal Act, a return under that section in relation to the period referred to in Subsection (1)(d) shall be deemed to be a return in respect of a year of income.

14. GROUP EMPLOYERS AND GROUP CERTIFICATES.

(1) Notwithstanding Section 280(6)(b) of the Principal Act, group certificates in respect of the fiscal year 1977 shall, for the purposes of that paragraph, be issued at the same time as the certificates issued under that paragraph for the fiscal year 1978.

(2) Notwithstanding the provisions of Section 280(6)(f) and (7) of the Principal Act—

- (a) the copies of group certificates and the reconciliation statement; and
- (b) the group certificate forms,

required by those provisions to be furnished and forwarded by a group employer to the Commissioner General in relation to the fiscal year 1977 shall be furnished and forwarded at the same time as the reconciliation statement under Section 280(6)(f)(ii) of that Act for the fiscal year 1978.

15. AMOUNT OF PROVISIONAL TAX.

In the application of Section 302(1) of the Principal Act in relation to the respective years of income of a taxpayer for the fiscal years 1977 and 1978, the amounts referred to in Section 302(1)(a) and (b) of the Principal Act shall each be deemed to be the amount that is equal to—

- (a) in the case of the fiscal year 1977—50%; and
- (b) in the case of the fiscal year 1978—100%,

of the amount of tax (after rebate) that would be payable in respect of his income of the period of 12 months ending on 30 June 1978 if the unamended Income Tax Act applied.

16. DUE DATE OF PAYMENT OF PROVISIONAL TAX.

In the application of Section 303(2) of the Principal Act to payment of provisional tax in respect of the fiscal year 1977, as determined in accordance with Section 15, the reference in Section 303(2) of the Principal Act to 30 September in that year of income shall be read as a reference to 31 March 1978.

Office of Legislative Counsel, PNG