

No. **21** of 2018.

*Income Tax (2019 Budget)(Amendment) Act 2018.*

Certified on : **30 JAN 2019**



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*Income Tax (2019 Budget)(Amendment) Act 2018.*

**ARRANGEMENT OF SECTIONS.**

1. Officers to observe secrecy (Amendment of Section 9).
2. Losses of previous years (Amendment of Section 101).
3. Deduction for allowable capital expenditure (Amendment of Section 155E).
4. Prescribed contracts income not included in assessable (Amendment of Section 196F).
5. Interpretation (Amendment of Section 198).
6. Rebate of educational expenses (Amendment of Section 214B).
7. Credits in respect of deductions made from dividends (Repeal of Section 219A).
8. Duties of paying Authority (Amendment of Section 280).
9. New Section 322B.

**“322B. OFFENCES RELATING TO IRC OFFICERS.”**



No.            of 2018.

AN ACT

entitled

***Income Tax (2019 Budget)(Amendment) Act 2018,***

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

MADE by the National Parliament and deemed to come into operation -

- (a) with respect to Section 3 - on 1 January 2012; and
- (b) with respect to Sections 4, 5 and 8 - on 1 January 2017; and
- (c) with respect to the remainder of the Act - on 1 January 2019.

**1. OFFICERS TO OBSERVE SECRECY (AMENDMENT OF SECTION 9).**

Section 9 of the Principal Act is amended by inserting after Subsection (7), the following new subsection:

“(8) Notwithstanding Subsection (4), any information obtained by the Papua New Guinea competent authority from the competent authority of a country with which Papua New Guinea has entered into a tax treaty or mutual administrative assistance agreement may be disclosed only to the extent permitted under the treaty or agreement.”

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

Section 101 of the Principal Act is amended -

- (a) in Subsections (3), (4) and (6) by repealing the words, “20 years immediately preceding the year of income or, for taxpayers carrying on resource operations as defined in Section 155(1), in any year” respectively appearing and replacing them with the following:

“seven years immediately preceding the year of income or, for taxpayers carrying on resource operations as defined in Section 155(1), in any of the 20 years immediately”;  
and

- (b) by repealing Subsection (4A) and replacing it with the following:

“(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.

(4B) Notwithstanding any other provision of this section, no loss incurred on or before 31 December 2002 shall be deductible, that, under the provisions in force prior to 1 January 2003, would not have been deductible from income derived in the year ended 31 December 2002 or in a later year.

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(4C) Notwithstanding any other provision of this section, no loss incurred on or before 31 December 2018 shall be deductible, that, under the provisions in force prior to 1 January 2019, would not have been deductible from income derived in the year ended 31 December 2018 or in a later year.”.

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

Section 155E of the Principal Act is amended by repealing Subsections (1) to (10) and replacing them with the following:

“(1) Subject to Sections 155F, 155I and 156F, the deduction for allowable capital expenditure of a taxpayer in respect of a resource project shall be -

- (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<sup>th</sup> 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 percent of the amount of the pool at the end of that year.

(2) Where in a year of income -

- (a) a taxpayer disposes of property in respect of which allowable capital expenditure has been incurred (including property in respect of which a notice is given under Section 155L) or the property is lost or destroyed or its use by the taxpayer for the purposes of carrying on resource operations is otherwise terminated; or
- (b) a taxpayer otherwise recoups allowable capital expenditure, the lesser of -
  - (i) the amount recovered by the taxpayer in respect of the allowable capital expenditure, other than amounts included in the assessable income of the taxpayer; or
  - (ii) the amount of the allowable capital expenditure to which the recoupment relates; or
  - (iii) the amount of the residual capital expenditure attributable to that property,

shall be deducted from the amount available for calculation of the allowable deduction under Subsection (1).

(3) Where a taxpayer commences to use property in respect of which an amount of expenditure has been allowed or is allowable as a deduction under this section, partly for a purpose other than the resource operations in question, the use shall be apportioned in accordance with Section 155(2) between the resource project and the other use where -

- (a) Subsection (2) shall apply in respect of the amount of allowable capital expenditure thereby apportioned to the other use.

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- (b) Section 155G shall apply in respect of the amount of allowable capital expenditure thereby apportioned to the other use as though it was a termination of use of an item of property of that value.
- (4) Subject to Subsection (5) where, at the end of a year of income -
- (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 un-deducted balance of the allowable capital expenditure being deducted over the remaining life of the resource project; and
  - (b) the estimated remaining life of production of a resource project is less than four whole years, the deduction calculated under Subsection (1)(b) shall be calculated by using such lesser divider than 1/4<sup>th</sup> as represents the remaining life of the resource project in years.
- (5) Where, having regard to the information in his possession, the Commissioner General is not satisfied that the estimate made by the taxpayer of the life of production from a particular resource project is a reasonable estimate, the estimated life shall, for the purposes of Subsection (4), be taken to be such period as the Commissioner General thinks reasonable, but not exceeding the divisors set out in Subsection (1).
- (6) The amount of the deduction allowable under this section shall not exceed an amount equal to so much of the assessable income from resource operations derived by the taxpayer from the resource project in the year of income as remains after deducting from that income all allowable deductions relating to the project, other than any deductions allowable under this section.
- (7) Subject to Subsection (6), the deduction allowable under Subsection (1) shall be firstly in respect of the amount calculated under Subsection (1)(a) and secondly in respect of the amount calculated under Subsection (1)(b).
- (8) To the extent that expenditure is incurred solely or predominantly for -
- (a) environmental protection activities as defined in Section 72D(1); or
  - (b) environmental impact study as defined in Section 72E(1); or
  - (c) site rehabilitation activities,
- Section 155E(6) does not apply.
- (9) Subject to Subsection (11), where the whole or part of a deduction under Subsection (1) in respect of a year of income is limited under Subsection (6), the amount of the deduction under Subsection (1) which is in excess of the deduction allowable shall be deemed to be allowable capital expenditure in respect of the next succeeding year of income.
- (10) The allowable capital expenditure referred to in Subsection (9) shall be treated as allowable capital expenditure under Subsection (1)(a) or (1)(b), in accordance with the excess amount under Subsection (1)(a) or (1)(b) in the previous year of income.
- (11) For the avoidance of doubt, amounts deemed to be allowable capital expenditure under Subsection (9) shall be subject to Subsection 155E(2).".

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**4. PRESCRIBED CONTRACTS INCOME NOT INCLUDED IN ASSESSABLE (AMENDMENT OF SECTION 196F).**

Section 196F of the Principal Act is amended as follows:

- (a) in Subsection (1) by repealing the words “and is paid”; and
- (b) in Subsection (2) by repealing the word “assessable” and replacing it with the word “taxable”.

**5. INTERPRETATION (AMENDMENT OF SECTION 198).**

Section 198 of the Principal Act is amended in the definition of “excluded MNE group” by repealing the number “203” and replacing it with the following:

“2.3”.

**6. REBATE OF EDUCATIONAL EXPENSES (AMENDMENT OF SECTION 214B).**

Section 214B of the Principal Act is amended by inserting after Subsection (3), the following new subsection:

“(4) This section shall cease to apply as of 1 January 2019 and the entitlement for a rebate is restricted to expenses for educational expenses incurred prior to that date.”.

**7. CREDITS IN RESPECT OF DEDUCTIONS MADE FROM DIVIDENDS (REPEAL OF SECTION 219A).**

Section 219A of the Principal Act is repealed.

**8. DUTIES OF PAYING AUTHORITY (AMENDMENT OF SECTION 280).**

Section 280 of the Principal Act is amended in Paragraph (b) of Subsection (1) by repealing the words “not later than fourteen days after the end” and replacing them with the following words:

“on the 21st day”.

**9. NEW SECTION 322B.**

The Principal Act is amended by inserting after Section 322A, the following new section:

**“322B. OFFENCES RELATING TO IRC OFFICERS.**

(1) In this section -

“IRC officer” includes -

- (a) a person employed or engaged by the IRC in any capacity; and
- (b) a former IRC officer, employee, or contractor;

“payment or reward”, in relation to an IRC officer, includes a payment or reward for the benefit of the IRC officer or any other person.

(2) An IRC officer is guilty of an offence if the IRC officer -

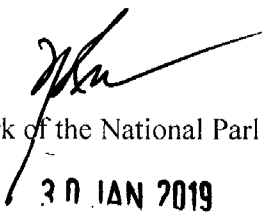
- (a) directly or indirectly asks for, or takes, in connection with any of the officer’s duties, any payment or reward, whether financial or otherwise, or a promise or security for any such payment or reward, not being a payment or reward that the officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in any arrangement under which the State is or may be defrauded of revenue, or that is contrary to a provision of a tax law, or to the proper execution of the officer’s duties; or
- (c) acts or omits to act so as to give an undue advantage or favour to the IRC officer personally or another person; or

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- (d) fails to prevent or report to the IRC or any other relevant authority, the commission of an offence under a tax law; or
  - (e) contravenes Section 9.
- (3) A person is guilty of an offence if the person -
- (a) directly or indirectly offers or gives to an IRC officer any payment or reward, whether financial or otherwise, or any promise or security for a payment or reward, not being a payment or reward that the officer was lawfully entitled to receive; or
  - (b) proposes or enters into any arrangement with an IRC officer under which the State is or may be defrauded of revenue, or that is contrary to a provision of a tax law, or to the proper execution of the officer's duties; or
  - (c) impersonates an IRC officer; or
  - (d) contravenes Section 9(5).
- (4) A person commits an offence when the person threatens, intimidates, or harasses an IRC officer in the performance of duties under a tax law.
- (5) The prosecution of an IRC officer for an offence under this section does not preclude any disciplinary action being taken against the officer under the *Internal Revenue Commission Act 2014*.


Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding 5 years."

I hereby certify that the above is a fair print of the *Income Tax (2019 Budget)(Amendment) Act 2018*, which has been made by the National Parliament.

  
Clerk of the National Parliament.

30 JAN 2019

I hereby certify that the *Income Tax (2019 Budget)(Amendment) Act 2018*, was made by the National Parliament on 20 November 2018.

  
Acting Speaker of the National Parliament.

30 JAN 2019