

DO NOT REMOVE

UNIT OF

4/2/2000

No. 19 of 1999.

Income Tax (Budget Provisions 2000) Act 1999.

Certified on :

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1999.

AN ACT

entitled

Income Tax (Budget Provisions 2000) Act 1999.

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

MADE by the National Parliament -

- (a) in respect of Sections 3 and 10 to be deemed to have come into operation on 1 January 1999; and
- (b) in respect of Section 4 - to be deemed to have come into operation on 1 July 1999; and
- (c) in respect of the remainder - to come into operation on 1 January 2000.

1. REPEAL AND REPLACEMENT OF SECTION 25A.

Section 25A of the Principal Act is repealed and is replaced with the following:-

“25A. EXEMPTION OF CHARITABLE BODIES.

(1) In this section, “charitable purpose” means relief of the poor, education and medical relief or any other object of general public utility not involving an activity for profit.

“(2) The income of an approved body or institution established for charitable purposes is exempt from income tax.

“(3) An institution or body may be approved by the Commissioner General by a notice in the National Gazette where -

- (a) it is evidenced by an irrevocable trust deed duly executed; and
- (b) no benefit accrues to the settlor of the trust or the trustee; and
- (c) not less than 80% of its income is utilized for the purpose for which the trust was established; and
- (d) regular books of account are maintained.

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“(4) The Commissioner General may allow accumulation of income for a specified period where he is satisfied that the accumulation is necessary for achieving the main object for which the trust was established.

“(5) An institution or body shall be allowed exemption under Subsection (2) for a period of five years.

“(6) The Commissioner General may extend exemption to an institution or body from time to time for further periods of not more than five years at a time.

“(7) The exemption granted to an already prescribed institution or body shall cease to have effect on expiry of five years from the date of exemption or on 31 December 2000 whichever is later, except where the institution has applied for the extension of exemption before the expiry of five years or before the specified date.”.

2. EXEMPTION OF CERTAIN INTEREST INCOME (AMENDMENT OF SECTION 35).

Section 35(2) of the Principal Act is amended by repealing Paragraph (e) and replacing it with the following:-

“(e) interest derived by an overseas non-resident financial institution from a company engaged in mining operations or petroleum operations in Papua New Guinea.”.

3. REPEAL AND REPLACEMENT OF SECTION 36B.

Section 36B of the Principal Act is repealed and is replaced with the following:-

“36B. EXEMPTION OF INCOME FROM SALE OF SHARES ON PORT MORESBY STOCK EXCHANGE.

Income derived from the sale of shares on the Port Moresby Stock Exchange by a non-resident beneficial shareholder is exempt from income tax.”.

4. NEW SECTION 47D.

The Principal Act is amended by inserting after Section 47C the following new section:-

“47D. ASSESSABLE INCOME - ACCOUNTING FOR VALUE ADDED TAX.

(1) The income of a person registered under the *Value Added Tax Act 1998* shall not include -

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- (a) any amount of value added tax, including additional tax and further additional tax charged, levied or calculated under the *Value Added Tax Act 1998* in respect of a supply of goods and services made by that person; and
- (b) any amount of value added tax refundable by the Commissioner General to that person.

“(2) Subject to Subsection (3), no deduction shall be allowed to any person registered under the *Value Added Tax Act 1998* for -

- (a) any amount of value added tax, including additional tax and further additional tax charged, levied or calculated under the *Value Added Tax Act 1998* in respect of a supply of goods and services made to that person; and
- (b) any amount of value added tax payable by that person to the Commissioner General.

“(3) Where a person registered under the *Value Added Tax Act 1998* supplies exempt goods or services, he shall be entitled to deduction of the value added tax paid by him on the purchase of goods or services, other than capital goods, to the extent he is not entitled to claim input credit for those purchases under the *Value Added Tax Act 1998*.

“(4) For the purposes of this Act, where any deduction, including deductions for depreciation for any property, is calculated by reference to the cost price of that property, the cost price shall be reduced by the amount of input credit allowed to that person under the *Value Added Tax Act 1998*.”

5. REPEAL AND REPLACEMENT OF SECTION 163ZZA.

Section 163ZZA of the Principal Act is repealed and is replaced with the following:-

“163ZZA. MINING LEVY.

Subject to this Act, a tax by the name of mining levy is imposed on every person engaged in mining operations carried on in Papua New Guinea and the amount payable shall be calculated in accordance with the following formula:-

$$(C - Y) + A \frac{(E - G)}{F}$$

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Where -

C = Amount of customs and excise duties payable at the rates in force as on 30 June 1999 on the value of goods of any kind imported by the taxpayer during the month under consideration; and

Y = Amount of customs and excise duties payable at the rates effective on the date of importation of the goods on the value of goods imported by the taxpayer during the month under consideration; and

A = Total value of all purchases made by taxpayer during the month under consideration as reduced by the value of goods imported during the month under consideration; and

E = Amount of customs and excise duties and Provincial sales tax payable on total value of all purchases made as reduced by the value of goods imported by the taxpayer in the calendar year 1998 as reduced by the value of goods imported at the rates in force in 1998; and

F = Total value of all purchases made by the taxpayer in the calendar year 1998 as reduced by the value of the goods imported during that year; and

G = Amount of customs and excise duties and Provincial sales tax payable on total value of all purchases made as reduced by the value of goods imported by the taxpayer in the calendar year 1998 as reduced by the value of goods imported at the rates in force during the month under consideration.

6. DECISION OF CHIEF COLLECTOR (AMENDMENT OF SECTION 246).

Section 246 of the Principal Act is amended by adding the following new Subsection:-

“(2) The Commissioner General may, where he considers it necessary, require the taxpayer in writing to furnish information relating to assessment or objection, before making decision on the objections of the taxpayer.”.

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7. REPEAL AND REPLACEMENT OF SECTION 247.

Section 247 of the Principal Act is repealed and is replaced with the following:-

"247. APPLICATION FOR REVIEW OR APPEAL.

A taxpayer dissatisfied with the decision may, within 60 days after service of the notice either:-

- (a) make an application to the Review Tribunal for Review in the prescribed form; or
- (b) file an appeal to the National Court in accordance with the National Court Rules."

8. REPEAL AND REPLACEMENT OF SECTION 248.

Section 248 of the Principal Act is repealed and is replaced with the following:-

"248. REFERENCE TO TRIBUNAL.

An application for Review shall be accompanied by a fee of -

- (a) where the value of tax in dispute does not exceed K2,000.00 per year of tax – K50.00; or
- (b) where the value of tax in dispute exceeds K2,000.00 per year of tax – K250.00."

9. REPEAL OF SECTION 249.

Section 249 of the Principal Act is repealed.

10. LIABILITY OF PERSON FAILING TO MAKE DEDUCTION (AMENDMENT OF SECTION 312AF).

Section 312AF(2) of the Principal Act is amended by repealing the word, letter and figure "Subsection (1)(a)" and replacing them with the following:-

"Subsection (1)."

I hereby certify that the above is a fair print of the *Income Tax (Budget Provisions 2000) Act 1999* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Income Tax (Budget Provisions 2000) Act 1999* was made by the National Parliament on 7 December 1999.

Speaker of the National Parliament.