

INCOME TAX (AMENDMENT) BILL

(NAME OF BILL)

1990

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~~Authorisation from Minister of Finance under s.60 of Constitution~~

FROM: Attorney General's Chambers 4/05/90

TO: Minister of Housing and Government Services
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk) 4/05/90

TO: Minister of Finance
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)

TO: Clerk to National Parliament
(for certificate by Speaker) 4.5.90

TO: Attorney General's Chambers
(for printing)

TO: Clerk to National Parliament
(for reference during 1st, 2nd and 3rd Readings)
(Date passed 15/5/90 Act No. 5/90) 15/5/90

TO: Attorney General's Chambers
(for checking before Assent) 19/6/90

TO: Governor-General
(for Assent) 20/6/90

TO: Clerk to National Parliament
(for distribution: 1 copy Attorney General's Chambers ✓ 20/6/90
1 copy Ministry 21/6/90
1 copy Parliament Office
1 copy Registrar of the High Court 20/6/90)



THE INCOME TAX (AMENDMENT) ACT 1990

(NO. 5 OF 1990)



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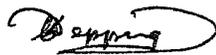
(NO. 5 OF 1990)

Passed by the National Parliament this fifteenth day of May 1990.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.


J.M. Tuhaika
Clerk to the National Parliament

Assented to in Her Majesty's name and on Her Majesty's behalf this twentieth day of June 1990.


G.G.D. Lepping
Governor-General

Date of commencement: see section 1.

AN ACT to Amend the Income Tax Act.

ENACTED by the National Parliament of Solomon Islands.

THE INCOME TAX (AMENDMENT) ACT 1990

ARRANGEMENT OF SECTIONS

Section:

1. Short title and commencement.
2. Amendment of section 2 of Cap. 61.
3. Amendment of section 14.
4. Amendment of section 23.
5. Amendment of section 29.
6. Amendment of section 31.
7. Insertion of new section 32B.
8. Insertion of new section 33A.
9. Amendment of section 34.
10. Amendment of section 44.
11. Repeal of section 62.
12. Amendment of section 70.
13. Amendment of Seventh Schedule.
14. Insertion of new Eighth and Ninth Schedules.

1. (1) This Act may be cited as the Income Tax (Amendment) Act 1990, and shall subject to subsection (2) come into operation on such date as the Minister may, by notice published in the Gazette, appoint, and apply to income derived for the year ending 31st December, 1990 and subsequent years.

Short title
and commence-
ment.

(2) The provisions of sections 4 and 7 of this Act (which amends section 23 and inserts a new section 32B to the Income Tax Act) shall be applicable to any income derived from 1st January, 1991, and subsequent years.

2. Subsection (1) of section 2 of the Income Tax Act (hereinafter referred to as the "principal Act") is hereby amended as follows -

Amendment
of section
2 of Cap. 61.

- (a) by deleting the words "Income Tax" that appear in the definition of "Commissioner" and inserting instead the words "Inland Revenue";
- (b) by deleting the semi-colon that appears at the end of paragraph (b) of the definition of "resident in Solomon Islands" and inserting instead a colon; and
- (c) by adding thereto next after the colon so inserted the following proviso -

"Provided that the Commissioner may, if he is satisfied taking into account the nature of the contract of employment and the method of payment for such services, treat such individual as non-resident, notwithstanding that at the relevant time such individual satisfies the requirements of this paragraph:".

3. Section 14 of the principal Act is hereby amended by deleting

Amendment
of section

and

- (c) by deleting from subsection (3) the words "two thousand five hundred dollars" and substituting therefor the words "five thousand dollars".

Amendment
of section
29.

5. Subsection (3) of section 29 is hereby amended by deleting therefrom paragraphs (a)(i) and (ii) and substituting instead the following new paragraph as paragraph (a) thereof -

- " (a) expenses, incurred on medical treatment in Solomon Islands or outside Solomon Islands, to such extent and of such nature as the Minister may by Order from time to time prescribe;".

Amendment
of section
31.

6. Section 31 of the principal Act is hereby amended as follows :

- (a) by deleting therefrom the words "the following rates" which appear immediately before paragraph (a) and substituting therefor the words "rates specified in the Eighth Schedule -";
- (b) by deleting paragraphs (a) and (b); and
- (c) by deleting from the proviso that appears at the end of that section the words "two dollars" and substituting therefor the words "five dollars".

Insertion
of new
section 32B.

7. The principal Act is hereby amended by inserting therein immediately after section 32A the following new section as section 32B -

"Provisions relating to application of certain sections. 32B. (1) Subject to the provisions of subsection (2), the tax chargeable upon the total income in any year of any person to whom the provisions of section 14A(1) apply shall be at the rate of 0.5 percent for every dollar of income up to a maximum tax of ten thousand dollars.

(2) The provisions of subsection (1) shall not apply to -

- (a) a non-resident person to whom the provisions of section 3(2)(a)(ii) apply; and
- (b) a person to whom the provisions of section 32(1) and (2) apply and the tax chargeable under that section exceeds the tax chargeable under subsection (1); and
- (c) any person granted exemptions under the provisions of this Act."

8. The principal Act is hereby amended by inserting therein immediately after section 33 the following new section as section 33A -

Insertion
of new
section 33A.

“Withholding 33A.(1) To the extent that the income specified in tax on gross subsection (2) is not exempt from tax, every person payments resident in Solomon Islands who makes a gross made to any person or group of persons resident in Solomon Islands shall deduct therefrom tax at the Ninth appropriate withholding rate specified in the Ninth Schedule. Schedule.

Provided that where the recipient of income specified in subsection (1) is an individual in secondary employment, the tax shall be deducted from such income paid to such individual at the rate prescribed in the Tax Deduction Rules, 1981:

Provided further that, where the Commissioner agrees with such person to accept an alternative arrangement for payment of the tax which may fall due under this section, he may declare such person exempt in part or in whole from the provisions of this section.

(2) For the purpose of subsection (1), income paid to a resident person as a gross payment and subject to resident withholding tax consists of -

- (a) income from contracting or subcontracting;
- (b) royalties;
- (c) income from fishing operations;

- (d) the gross amount paid;
- (e) the tax deducted from the gross payment;
and
- (f) the net amount paid.

(4) The amount of tax deductible from the payment of income in accordance with subsection (1) shall be due and payable by the payer to the Commissioner by the 20th day of the month following the month in which the gross payment was made, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such amount so deductible as if it were income tax which was due for payment on the twentieth day next after the said date on which the gross payment was made.

(5) Where any person in breach of subsection (1) fails to deduct any tax, the Commissioner shall have the right to collect such tax from either such person or the person who is chargeable with such tax and the Commissioner may take such steps as he thinks fit to recover that amount from both of those persons concurrently, or for recovering that amount wholly from one of those persons, or partly from one and partly from the other of those persons.

(6) Notwithstanding anything to the contrary in this Act, the tax deduction from the gross payment in accordance with this section shall be the final tax chargeable on such gross payments in respect of any -

- (i) resident body of persons other than a company; and
- (ii) resident individual whose total income including such gross payments, in any year is less than ten thousand dollars.

(7) In this section and the Ninth Schedule unless the context otherwise requires -

“gross payment” means in relation to an amount, the total amount without deduction whatsoever;

“income from fishing operations” means gross payments for operations relating directly to the taking or catching of fish, turtle, dugong, crustacea, oysters or other shellfish, within Solomon Islands;

- “income from lease of property” means gross payments for a sub-lease and any licence, concession, permission, easement or other right granted to any person to use or over any land, and an agreement for such a concession; whether or not such a lease of property is effected by an oral or written agreement, and in the case of a written agreement, whether or not such document is required to be registered under the Land and Titles Act;
- “income from the sale of copra” means all sales of copra within Solomon Islands;
- “income from the sale of cocoa” means all sales of cocoa within Solomon Islands;
- “income from the sale of marine products” means gross payments from all sales of beche-demer, marine shells, turtle shells and shark fins within the Solomon Islands;
- “income from contracting and or sub-contracting” means as gross payments made for the business of installation, maintenance, construction, erection, clearing and draining;
- “paid”, includes distribution, crediting or dealing with gross payments in the interest of, or on behalf of a person or group of persons, and the word “payment” shall be construed accordingly;
- “royalties” includes the extracting, removal or other

- (ii) by deleting from the definition of "income from ships or aircraft" the words "gains or profits from" wherever those words occur in that definition and substituting therefor in each case the words "the gross payments from";
- (iii) by deleting the definition of "know how payments"; and
- (iv) by inserting in proper alphabetical sequence the following new definitions -
 - " "interest" in relation to the deriving of income by a non-resident person shall mean income on any amount for or a sum in the nature of interest where a person agrees or promises to pay a non-resident person a sum greater than the amount borrowed, the excess shall be deemed to be interest;
 - "person" includes the Solomon Islands Government and any Provincial Government or public authority;
 - "professional services" means any payment for professional or technical services or services of an adviser or consultant where the services are rendered wholly or partly in Solomon Islands to the extent that such payments do not constitute -
 - (i) emoluments which are liable to the deduction of tax within the Tax Deduction Rules 1981; or
 - (ii) reimbursement of travelling or accommodation expenses which are wholly and exclusively incurred in relation to such payment; and
 - "royalties" mean payments of any kind to the extent of which it is derived as consideration for -
 - (i) the use of or right to use any copyright, patent, design or model, plan, secret formula or process, trademark or other like property or right;

- (ii) the supply of scientific, technical, industrial or commercial knowledge, information or assistance;
 - (iii) the supply or assistance ancillary and subsidiary to and is furnished as a means of enabling the application or enjoyment of any such property or right or any such knowledge or information or assistance as is mentioned in paragraphs (i) and (ii) of this definition.”;
- (b) by deleting paragraph (b) of subsection (3) and substituting therefor the following new paragraph -
 “ (b) professional services;”;
- (c) by inserting in subsection (4) the words “by the 20th day of the month following date of payment of such income” next after the word “certificate” that appears at the end thereof.

10. Section 44 of the principal Act is hereby amended by deleting subsection (2).

Amendment
of section
44.

11. Section 62 of the principal Act is hereby repealed.

Repeal of
section 62.

12. Subsection (1) of section 70 of the principal Act is hereby amended by deleting the figure “30” and substituting therefor the figure “20”.

Amendment
of section
70.

13. The Seventh Schedule to the principal Act is hereby amended as follows -

Amendment
of Seventh
Schedule.

- (a) by deleting the words “Rates of Withholding Tax” and substituting therefor the words “Rates of Non-Resident Withholding Tax”;
- (b) by deleting paragraph (ii) and substituting therefor the following -
 “ (ii) Professional Services
 7 ½¢ in the dollar”;
- (c) by deleting from paragraph (iv) the words “6¢ in the dollar” and substituting therefor the words “7 ½¢ in the dollar”; and

NINTH SCHEDULE
(section 33A)

Rates of Resident Withholding Tax

INCOME	RATE
(i) Income from contracting and/or subcontracting	7 ½¢ in the dollar
(ii) Royalties	10¢ in the dollar
(iii) Income from fishing operations	10¢ in the dollar
(iv) Income from lease of property	10¢ in the dollar
(v) Income from the sale of cocoa	2¢ in the dollar
(vi) Income from the sale of copra	2¢ in the dollar
(vii) Income from the sale of marine products	10¢ in the dollar''.