

BILL NO. 20 OF 2017

A BILL

FOR AN ACT TO AMEND THE TAX ADMINISTRATION ACT 2009

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Tax Administration (Budget Amendment) Act 2017.

(2) This Act comes into force on 1 August 2017.

(3) In this Act, the Tax Administration Act 2009 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended by inserting the following new definition—

““Environment and Climate Adaptation Levy” means the Environment and Climate Adaptation Levy payable under the Environment and Climate Adaptation Levy Act 2015 and the Superyacht Charter Act 2010;”.

Section 22 amended

3. Section 22(3) of the Principal Act is amended by—

(a) in paragraph (c), deleting “or”;

- (b) in paragraph (d)—
 - (i) deleting “service turnover tax” and substituting “STT”; and
 - (ii) deleting “,” and substituting “; ”; and
- (c) after paragraph (d), inserting the following new paragraphs—
 - “(e) Environment and Climate Adaptation Levy; or
 - (f) Airport Departure Tax,”.

Section 32 amended

- 4. Section 32(1) of the Principal Act is amended by—
 - (a) in paragraph (a), after “Service Turnover Tax Act 2012,” inserting “or the Environment and Climate Adaptation Levy Act 2015, or the Superyacht Charter Act 2010, or the Airport Departure Tax Act 1986,”; and
 - (b) in paragraph (b), deleting “service turnover tax,” and substituting “STT, Environment and Climate Adaptation Levy, Airport Departure Tax,”.

Section 35 amended

- 5. Section 35 of the Principal Act is amended by—
 - (a) in subsection (1)—
 - (i) in paragraph (d), deleting “and”;
 - (ii) in paragraph (e), deleting “.” and substituting “; and”;
 - (iii) after paragraph (e), inserting the following new paragraph—
 - “(f) may, so far as is reasonably necessary for the purposes in the preceding paragraphs, break open any door, window or container and force and remove any other impediment or obstruction, provided that entry shall not be made at night except in the company of a police officer.”; and
 - (b) after subsection (3), inserting the following new subsection—
 - “(3A) Without prejudice to any other power under any tax law, where the CEO or authorised tax officer declares on oath before a Magistrate that he or she has reasonable grounds to exercise the powers under subsection (1), the Magistrate may by warrant under his or her hand, authorise the CEO or authorised tax officer to exercise the powers under subsection (1) with such force as may be necessary, by day or by night.”.

Section 48A amended

- 6. Section 48A of the Principal Act is amended by—
 - (a) deleting “1 January 2016” wherever it appears and substituting “1 January 2018”; and

- (b) in subsection (1) in the definition of “amnesty period”, deleting “15 October 2015” and substituting “31 December 2017”.

Section 48C amended

7. Section 48C of the Principal Act is amended by—

- (a) deleting “1 November 2015” wherever it appears and substituting “1 July 2017”;
- (b) in subsection (1) after “1 July 2017”, inserting “or who has filed a tax return but wishes to make an amendment to the tax return so filed in order to pay the correct chargeable taxes”; and
- (c) in subsection (2)—
 - (i) in the definition of “amnesty period”, deleting “6 November 2015 to 31 December 2015” and substituting “30 June 2017 to 31 December 2017”; and
 - (ii) deleting the definition of “qualifying person” and substituting the following—
 - ““qualifying person” means a person—
 - (a) who is a tax resident and Fijian citizen;
 - (b) who is required to file a tax return under any tax law; and
 - (c) whose annual gross turnover is less than \$1.5 million.”.

Section 49 amended

8. Section 49(1) of the Principal Act is amended by—

- (a) deleting “\$10,000” and substituting “\$25,000”; and
- (b) deleting “12 months” and substituting “10 years”.

Section 50 amended

9. Section 50(1) of the Principal Act is amended by—

- (a) deleting “\$15,000” and substituting “\$25,000”; and
- (b) deleting “12 months” and substituting “10 years”.

Section 51 amended

10. Section 51 of the Principal Act is amended by—

- (a) deleting “\$15,000” and substituting “\$25,000”; and
- (b) deleting “12 months” and substituting “10 years”.

Section 52 amended

11. Section 52 of the Principal Act is amended by—

- (a) in subsection (1), deleting “24 months” and substituting “10 years”;
- (b) in subsection (3)—
 - (i) deleting “\$10,000” and substituting “\$25,000”; and
 - (ii) deleting “12 months” and substituting “10 years”; and
- (c) in subsection (4), deleting “24 months” and substituting “10 years”.

Section 53 amended

12. Section 53(1) of the Principal Act is amended by deleting “24 months” and substituting “10 years”.

Section 54 amended

13. Section 54 of the Principal Act is amended by deleting “24 months” and substituting “10 years”.

Section 56 amended

14. Section 56 of the Principal Act is amended by—

- (a) deleting “\$15,000” and substituting “\$25,000”; and
- (b) deleting “12 months” and substituting “10 years”.

Section 57 amended

15. Section 57(2), (3), (4) and (5) of the Principal Act is amended by deleting “24 months” and substituting “10 years”.

New section 58A inserted

16. The Principal Act is amended after section 58 by inserting the following new section—

“Offence for failure to display tax

58A.—(1) A taxpayer must ensure that the price of all goods and services supplied at the retail level for its customers is displayed as inclusive of all applicable taxes.

(2) A taxpayer who fails to display any chargeable tax as required under a tax law commits an offence and is liable for a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years or to both a fine and imprisonment.”.

Section 60 amended

17. Section 60(1) of the Principal Act is amended by deleting “within 7 years”.

Section 93 amended

18. Section 93(6)(c) of the Principal Act is amended by—

- (a) deleting “\$10,000” and substituting “\$25,000”; and
- (b) deleting “3 months” and substituting “10 years”.

Section 98 amended

19. Section 98(4) of the Principal Act is amended by—

- (a) deleting “\$2,000” and substituting “\$25,000” and
- (b) deleting “3 months” and substituting “10 years”.

Section 111 amended

20. Section 111 of the Principal Act is amended by deleting “Permanent Secretary” wherever it appears and substituting “CEO”.

Section 116 amended

21. Section 116 of the Principal Act is amended by deleting “24 months” and substituting “10 years”.

Schedule 2 amended

22. Schedule 2 to the Principal Act is amended in paragraph (1) by—

- (a) after paragraph (d), inserting the following new paragraph—
“(e) the Environment and Climate Adaptation Levy Act 2015;” and
- (b) after paragraph (f), inserting the following new paragraphs—
“(g) the Superyacht Charter Act 2010;
(ga) the Airport Departure Tax Act 1986;”.

Schedule 3 amended

23. Schedule 3 to the Principal Act is amended after paragraph (6) by inserting the following new paragraphs—

- “(7) A return and payment required under the Environment and Climate Adaptation Levy Act 2015.
- (8) A return and payment required under the Superyacht Charter Act 2010.
- (9) A return and payment required under the Airport Departure Tax Act 1986.”

Consequential amendments

24. The Gambling Turnover Tax Act 1991 is amended in section 6(5) by deleting “of \$1,000” and substituting “not exceeding \$25,000”.

June 2017

TAX ADMINISTRATION (BUDGET AMENDMENT) BILL 2017

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Tax Administration Act 2009 (**‘Act’**) was introduced in 2009 to harmonise the rules relating to the administration of the tax laws of Fiji and to ensure the efficient collection of taxes.
- 1.2 The Tax Administration (Budget Amendment) Bill 2017 (**‘Bill’**) amends the Act to introduce certain policy changes introduced by the 2017-2018 Budget.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If the Bill is passed by Parliament, the amending legislation will come into force on 1 August 2017.
- 2.2 Clause 2 of the Bill amends section 2 of the Act by inserting the definition of “Environment and Climate Adaptation Levy”.
- 2.3 Clause 3 of the Bill amends section 22(3) of the Act by deleting “service turnover tax” and substituting “STT”. STT is used instead of service turnover tax because STT is defined in section 2 of the Act as service turnover tax. Clause 3 of the Bill also inserts new paragraphs to include the Environment and Climate Adaptation Levy and the Airport Departure Tax.
- 2.4 Clause 4 of the Bill amends section 32(1)(a) by inserting “the Environment and Climate Adaptation Levy Act 2015, or the Superyacht Charter Act 2010, or the Airport Departure Tax Act 1986” after “Service Turnover Tax Act 2012,”. This ensures that the Act also caters for the administration of the Environment and Climate Adaptation Levy Act 2015, the Superyacht Charter Act 2010 and the Airport Departure Tax Act 1986. Clause 4 of the Bill also amends section 32(1) (b) by deleting “service turnover tax” and substituting “STT, Environment and Climate Adaptation Levy, Airport Departure Tax,”.

- 2.5 Clause 5 of the Bill amends section 35 of the Act to allow for search warrants to effect the powers under that section.
- 2.6 Clause 6 of the Bill amends section 48A of the Act to extend the amnesty period to 31 December 2017. In 2015, all Fijians who had assets outside Fiji or income derived from such assets (**'foreign assets'**) and have not declared their foreign assets or income with the Fiji Revenue and Customs Authority (**'FRCA'**) were given an initial amnesty period from 1 January 2015 to 15 October 2015 upon which they could declare their foreign assets without any tax liability, penalty or fine on the foreign assets. The amendment extends the amnesty period to 31 December 2017 to allow an additional grace period for Fijians to continue to come forward to correctly declare their foreign assets to FRCA.
- 2.7 Clause 7 of the Bill amends section 48C of the Act to extend the amnesty period to 31 December 2017. In 2015, all Fijians who failed to file a tax return and pay chargeable taxes under any tax law prior to 1 November 2015 obtained an amnesty if they filed their tax returns and paid their taxes during the amnesty period from 6 November 2015 to 31 December 2015. The amendment extends the amnesty period to 31 December 2017 to allow an additional grace period for Fijians to come forward, register, file their tax returns and pay their taxes, provided that their annual gross turnover does not exceed \$1.5 million. The amendment also applies to those who have filed their tax returns but wish to make amendments to their tax returns in order to pay their taxes.
- 2.8 Clause 8 of the Bill amends section 49(1) of the Act to increase the maximum fine from \$10,000 to \$25,000, and the maximum term of imprisonment from 12 months to 10 years.
- 2.9 Clause 9 of the Bill amends section 50(1) of the Act to increase the maximum fine from \$15,000 to \$25,000, and the maximum term of imprisonment from 12 months to 10 years.
- 2.10 Clause 10 of the Bill amends section 51 of the Act to increase the maximum fine from \$15,000 to \$25,000, and the maximum term of imprisonment from 12 months to 10 years.
- 2.11 Clause 11 of the Bill amends section 52 of the Act to increase the maximum fine from \$10,000 to \$25,000 and the maximum terms of imprisonment from 12 months and 24 months to 10 years.
- 2.12 Clause 12 of the Bill amends section 53(1) of the Act to increase the maximum term of imprisonment from 24 months to 10 years.
- 2.13 Clause 13 of the Bill amends section 54 of the Act to increase the maximum term of imprisonment from 24 months to 10 years.

- 2.14 Clause 14 of the Bill amends section 56 of the Act to increase the maximum fine from \$15,000 to \$25,000, and the maximum term of imprisonment from 12 months to 10 years.
- 2.15 Clause 15 of the Bill amends section 57 of the Act to increase the maximum term of imprisonment from 24 months to 10 years.
- 2.16 Clause 16 of the Bill amends the Act by inserting a new section 58A to provide for the offence for failure to display tax.
- 2.17 Clause 17 of the Bill amends section 60(1) of the Act by deleting “within 7 years” to remove the limitation period.
- 2.18 Clause 18 of the Bill amends section 93(6)(c) of the Act to increase the maximum fine from \$10,000 to \$25,000, and the maximum term of imprisonment from 3 months to 10 years.
- 2.19 Clause 19 of the Bill amends section 98(4) of the Act to increase the maximum fine from \$2,000 to \$25,000, and the maximum term of imprisonment from 3 months to 10 years.
- 2.20 Clause 20 of the Bill amends section 111 of the Act by deleting “Permanent Secretary” and substituting “CEO”. The chairperson of the Tax Agents’ Board is changed from the Permanent Secretary for Economy or his or her representative to the Chief Executive Officer of FRCA or his or her representative for ease of administration.
- 2.21 Clause 21 of the Bill amends section 116 of the Act to increase the maximum term of imprisonment from 24 months to 10 years.
- 2.22 Clause 22 of the Bill amends Schedule 2 to the Act by inserting a new paragraph to specifically include the Environment and Climate Adaptation Levy Act 2015, the Superyacht Charter Act 2010 and the Airport Departure Tax Act 1986.
- 2.23 Clause 23 of the Bill amends Schedule 3 to the Act by inserting new paragraphs so that the Act covers returns and payments under the Environment and Climate Adaptation Levy Act 2015, the Superyacht Charter Act 2010 and the Airport Departure Tax Act 1986.
- 2.24 Clause 24 of the Bill amends section 6(5) of the Gambling Turnover Tax Act 1991 to increase the maximum fine from \$1,000 to \$25,000.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for finance.

A. SAYED-KHAIYUM
Attorney-General