



NATIONAL PARLIAMENT OF SOLOMON ISLANDS  
BILLS AND LEGISLATION COMMITTEE

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**Report on the Income Tax  
(Amendment) Bill 2014**

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National Parliament Office

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## EXECUTIVE SUMMARY

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The Committee after conducting its inquiry into the *Income Tax (Amendment) Bill 2014* acknowledges the Ministry of Finance and Treasury for the tax reforms in the mining sector.

The Committee resolve to conduct hearings into the two Bills together because the amendment brought about by the Mines and Minerals (Amendment) Bill 2014 complement changes proposed in the Income Tax (Amendment) Bill 2014.

The Committee supports the noble intention of the amendments that is to create a new mining tax regime that will be able to attract mining investors.

Currently there are specific taxes under various specific legislations including Part III of the fourth Schedule, Goods Tax, Customs duties, Stamp duties and few others.

The tax incentives provided under this Bill includes construction of approved infrastructure, Environmental rehabilitation cost, opportunity for loses to be carried forward, dividends, ring fencing and a new formula for calculating additional profit tax.

The Committee also express concerns on the need to do further research on how mining industry operates for us to base our tax incentives on and the need to do more consultation with private sector stakeholders to view how these tax amendments will impact on their operations.

# 1 INTRODUCTION

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The Bills and Legislation Committee (“the Committee”) had completed its review of the *Income Tax (Amendment) Bill 2014*. The Bill was submitted to the Speaker through the Clerk to Parliament as required under the *Standing Orders*<sup>1</sup> on the 11<sup>th</sup> of April 2014.

The Committee had its deliberative meeting on the 14<sup>th</sup> of April and resolved to invite stakeholders<sup>2</sup> to make presentations on the contents and policy matters of the Bill. The hearing into the Bill with the stakeholders was held on the 16<sup>th</sup> of April 2014. The minutes of these proceedings are in appendix 1.

## 1.1 Functions of the Committee

The Bills and Legislation Committee is established under the *Standing Orders*<sup>3</sup>. The Order made pursuant to the *Constitution*<sup>4</sup> has the functions together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee’s deliberations.

## 1.2 Terms of Reference

Pursuant to its mandate under the *Standing Orders*<sup>5</sup>, the terms of reference of the Committee in this instance is to examine the Bill and to report its observations and recommendations on the Bill to Parliament.

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<sup>1</sup>*Standing Order 44 (1)*

<sup>2</sup>See Appendix 2

<sup>3</sup>*Standing Order 71*

<sup>4</sup>*Section 62, Constitution of Solomon Islands 1978*

<sup>5</sup>*Standing Order 71*

### 1.3 Membership

The current members of the Bills and Legislation Committee (9<sup>th</sup>Parliament) are:

Hon. Manasseh D. Sogavare, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Milner Tozaka, MP

Hon. Matthew Cooper Wale, MP

Hon. John Maneniaru, MP

Hon. James Tora, MP

Hon. Douglas Ete, MP

Hon. Sam Iduri, MP

Hon. Johnley Hatimoana, MP



## 2 BACKGROUND

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Solomon Islands is currently at a crossroads in the management of its natural resources. It is widely expected that Solomon Islands' main exported natural resource, round logs, will be depleted within years. To ensure the most is made of the nation's mineral resources in the future, there is need for a taxation framework which encourages responsible mining activities while also ensure an appropriate return from these resources for the people of Solomon Islands. The Income Tax (Amendment) Bill 2014 proposes to introduce a new mining tax regime for the mining industry in the Solomon Islands. The mining tax regime proposed is intended to attract increased foreign investment (and associated expertise and experience) and secure revenue in the future.

The Committee resolved to conduct hearing into the Mines and Mineral Amendment and the Income Tax Amendment together because their proposed amendments are interrelated and complement each other. The Committee also notes that the amendments are intended to come into effect on 1<sup>st</sup> July 2014.

### 2.1 Current Status

The Current status with mining companies with regards to taxation is, they are treated as any other ordinary company doing business in the country. However, there are specific mining taxes contained in specific legislations.

Such includes, Part III of the fourth Schedule in the current principal Act. The current Amendment Bill repealed Part III and reorganized it. In terms of the existing package under the Income Tax Act all expenditure wholly and inclusively incurred in the production of the income will be applied to mining companies and other companies. Also special treatment under current Part III of the fourth Schedule, deductions of capital expenditure under the Income Tax Act 1965, Income Tax (Deductions of capital expenditure on special development Asset) order 1982. Also mining companies are tax under other Acts like the Goods Tax Act 1992, Sales Tax Act 1990, Customs Tax Act 1960, and Stamp Duties Act 1940. There are also specific agreements with mining agreements with all the obligated taxes under specific legislations mention above form the current taxation package of mining companies.

## 2.2 New Mining Tax Regime

The Income Tax Amendment Bill with related amendment to the Mines and Minerals Act introduces a new mining tax regime in the country. The legislations consolidated and modernizes the arrangements governing the Solomon Islands taxation of mining, more specifically to encourage responsible mining activities while at the same time ensuring that there is appropriate return to mineral owners and the Government. The reforms will also remove the need for the Government to negotiate fiscal deals on one on one basis with mining companies.

The Income Tax amendment fix the income tax rate at 35% for mining companies and allow the additional profit tax rate to remain at 20% with associated threshold at 20%. These rates are fixed to provide certainty to mining investors and would allow Government to benefit from the profitability of mining companies. The amendments also provide certainty on the limits on debts and deductions available. It also provides tax credit for approved investment and it requires funds to be set aside by mining companies for environmental clean-up. It also allows loses to be carried forward for 7 years and introduces appropriate depreciation allowances for mining companies.

Another objective of the amendments is to introduce appropriate tax arrangements that are not only fair but are also competitive, simple and reasonable to mining investors. According to the Ministry of Finance<sup>6</sup>, a primary objective of the Income Tax (Amendment) Bill 2014 is to provide business confidence and certainty to prospective investor and that would allow them to make sound business proposals in the mining sector.

Generally the Committee views the amendments in this Bill as generally improving and reorganises the current tax regime. Probably the only new inclusion would be the additional profit tax and ring fencing thought the practice had been applied already but not clearly defined.

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<sup>6</sup> Shadrack Fanega, Oral evidence, 16<sup>th</sup> April 2014

## **3 IMPACTS**

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Generally the new mining tax regime recognises the huge capital inputs by companies during the three stages of mining. During the first two stages of surveying and prospecting a lot of capital is put in by mining companies but little is gained. It is the initial phases of locating and trying to calculate the economic value of mineral deposit in allocated license tenements. It is during the mining phase that companies are able to make profits out of their production. The Government recognises the risk mining companies are taking therefore initiate the tax amendments to give incentives to these companies. Some of these incentives are outlined.

### **3.1 Approved Infrastructure**

Section 15 inserts a new section 36A to allow the Minister of Mines and Minerals to make it a condition of a mining lease for certain companies to construct approved infrastructure. Any mining company constructing approved infrastructure will be granted a tax credit on any incurred expenditure in the construction.

### **3.2 Environmental Rehabilitation Cost**

Section 18 replaced paragraph (2) (o) with a provision that allows a deduction for amount allocated by an approved mining company for future application towards the cost of environmental rehabilitation, restoration or reclamation. To qualify for deduction, the amounts must be required by a mining license, the Mines and Mineral Act, the Environmental Act 1988 or a relevant agreement.

### **3.3 Losses Carried Forward**

Section 19 of principal Act is amended by clarifying the general carry forward of five years and extending to seven years for approved mining companies. This recognizes the long term nature of mining operations, with substantial up-front costs, with corresponding profit often not generated until a mine is mature and commodity prices are supportive.

### **3.4 Dividends**

Section 18 of the principal Act is amended by inserting the requirement, for dividends to be deductible in the Solomon Islands. Withholding tax must have been deducted at a rate of at least twenty percent. Twenty percent is lower rate of dividend withholding tax imposed in



Solomon Islands (a rate of thirty percent applies to dividends paid to non-residents). Without this amendment, it may be argued that companies (including approved mining companies, which are not required to pay dividend withholding tax) could avoid tax by paying all profit out as dividends.

This clarification ensures that dividends are only deductible from assessable income if the minimum non-zero amount of dividend withholding tax has been paid.

### **3.5 Ring Fencing**

Part III of the Fourth Schedule is revised by repealing the existing Part and replacing it with a new Part on mining. Under this amendment, paragraph 11 ensures that where a mining company has separate mining or exploration licenses for different sites, the company is treated as if it were a separate taxpayer in respect of each site. This system is sometimes known as “ring fencing” or “quarantining” and is found in many countries income tax laws. The purpose of the rule is to ensure tax is paid when a mine shifts from preparation stage to the commercial production stage. Without this rule, it would be possible for a company to shield its profit from tax by using deductions related to expenditures at another mining operation to offset the income.

### **3.3 Additional Profit Tax Formula**

Section 5 of the Ninth Schedule in the principal Act is amended to simplify and clarify the operation of the additional profits tax. The tax will apply at a rate of 20 percent. It will effectively apply to profits excluding financing costs where the rate of return from a project exceeds 20 percent. This is referred to in the industry as a 20/20 additional profits tax.

The formula for calculating the additional profit tax is revised as  $A = (120\% \times B) + C$ .

## **4 CONCERNS**

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The Committee acknowledge the objectives of the Bill in providing incentives for mining investors to come to our country. However mining is a new industry and the country is still yet to see its full potential and so there is need to look beyond our borders a learn from other countries.

### **4.1 Comparative analysis**

Members of the Committee express concern on the lack or little knowledge we have about the mining industry. There is great need for the Government to research what impacts mining have in other fully fledged mining countries and base our tax incentives on their experience. In other words, there is need for a comparative analysis with our neighbouring mining countries to pitch our tax incentives on their experience.

### **4.2 Consultations**

The Committee is concern that consultations on the amendments in this Bill may not seek the view of the mining companies currently in the country or other interested stakeholders. Representatives from one of the mining companies when appearing before the committee seems not to understand the new tax introduce and express the view that any new taxation in the mining industry must be done carefully, so as not to hamper what should be a thriving industry. The Committee asked them to submit a written submission on the Income Tax Amendments. The written submission was not received when this report was tabled. So the impacts of the new mining tax regime on the private sector into the future cannot be envisaged.

## 5 RECOMENDATIONS

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1. The Committee is aware that the current tax regime for mining is scattered in various specific legislations. The Committee recommends that the Government explore possibilities of putting together mining taxes under a specific sector taxation regime.
2. The Committee is concern that the additional profit tax pitch at 20% threshold may detract investors from the Solomon Islands at this stage of the sectors development and so encourages the Government to keep monitoring the situation.



**Hon. Manasseh Sogavare**  
Chairman  
Bills and Legislation Committee  
25 April 2014

## 6 APPENDICES

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### APPENDIX 1: MINUTES



#### BILLS AND LEGISLATION COMMITTEE

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#### NATIONAL PARLIAMENT OF SOLOMON ISLANDS

##### **Deliberative meeting**

**Minutes of deliberative meeting into the Mines and Minerals (Amendment) Bill 2014 and the Income Tax (Amendment) Bill 2014**

Held: Monday 14 April 2014,  
Venue: Parliament Conference Room 2  
Time: 2:43pm – 3:18pm

##### **1. Members Present**

Hon. Manasseh D. Sogavare (Chairman)  
Hon. Dr. Derek Sikua  
Hon. Matthew Wale  
Hon. James Tora

##### **Secretariat**

Wilson Anii, Committee Secretariat

##### **2. Chair's Opening Remarks**

The Chair thanked Committee members for attending. The Chair introduced the two Bills and brief members on the Bills.

##### **3. Committees resolution**

Members were invited to suggest witnesses and stakeholders to be invited to appear before the Committee. The Committee resolved to invite the following:

- Rep from the Ministry of Mines
- Rep from the Ministry of Finance
- Chief Legal Draftsman, AG Chambers
- The Commissioner of Inland Revenue Division (IRD)
- Chamber of Commerce
- Sumitomo Solomon Islands
- Axiom KB Ltd
- Evita Solomon Ltd

The Committee also resolve to start inquiry hearings on Wednesday 16 April in the afternoon.

##### **4. Close**

Closing prayer by Hon. Matthew Wale

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**Minutes of Proceedings  
Day 1 Hearing**

Date: Wednesday 16 April,  
Venue: Parliament Conference Room 2,  
Time: 1:34pm – 4:23pm

**Members Present**

Hon. Manasseh Sogavare, MP (Chair)  
Hon. Dr Derek Sikua, MP  
Hon. James Tora, MP  
Hon. Matthew Wale, MP  
Hon. John Maneniaru, MP  
Hon. Douglas Ete, MP  
Hon. Johnley Hatimoana, MP

**Stakeholders (Witnesses)**

Shadrack Fanega- PS, Mins of Finance (MOFT)  
Barnabas Anga- PS, Mins of Mines  
Ranjit Hewagama- Chief Legal Draftsman, AG Chambers  
Aylton Neale Jamieson- Commissioner Inland Revenue Division (IRD)  
George Henry Tupo- Deputy Commissioner IRD  
Selwyn Takana- Director Economic Reform Unit (ERU), MOFT  
Katherine T- Senior Advisor, ERU, MOFT  
Mckinnie Dentana- Undersecretary ERU, MOFT  
Rictor Heaboe- ERU, MOFT

**Secretariat**

Mr Wilson Anii, Committee Secretary

**1. Welcome & Opening Statement**

Chairman acknowledges and thanked the stakeholders for their commitment to appear before the committee for the public hearing into the two Bills. The Chairman made welcome remarks and inform the witnesses on protection under parliament privileges.

**2. Hearing into the Bill**

The Chairman clarified that the hearing will inquire into the two Bills together because their objectives sought by the amendments are interrelated.

He then invited those who appear to make opening statements to the Committee on the Bill.

The PS MOFT made presentations on behalf of the Ministry of Finance followed by the Commissioner of IRD. The PS of the Mins of Mines also made presentations.

All express their support for the amendments and state that these will establish a new mining tax regime.

The Committee questioned, made comments and seek clarification from those who appear on the different issues covered in the Bill.

The evidence concluded and the Chair thanked the stakeholders for their attendance.

**3. Closing**

Closing prayer by Hon. James Tora

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**Minutes of Proceedings  
Day 2 Hearing**

Date: Thursday 17 April,  
Venue: Parliament Conference Room 2,  
Time: 11:48am – 1:00pm

**Members Present**

Hon. Manasseh Sogavare, MP (Chair)  
Hon. Dr Derek Sikua, MP

Hon. Matthew Wale, MP  
Hon. John Maneniaru, MP  
Hon. Douglas Ete, MP

**Stakeholders (Witnesses)**

Trevor Wright- Exploration Manager, Axiom KB Ltd  
Carlos Maelaua- Senior Geologist, Axiom KB Ltd

**Secretariat**

Mr Wilson Anii, Committee Secretary

**1. Welcome & Opening Statement**

Chairman acknowledges and thanked the two representatives from Axiom KB Ltd for their commitment to appear before the committee for the public hearing into the two Bills. The Chairman made welcome remarks and inform the witnesses on protection under parliament privileges.

**2. Hearing into the Bill**

The Chairman clarified that the hearing will inquire into the two Bills together because their objectives sought by the amendments are interrelated.

He then invited the two to make opening statements to the Committee on the Bills. Both witnesses made presentations led by Trevor Wright. However both witnesses don't have access to the Income tax (Amendment) Bill 2014. A copy was given to Trevor and the Committee requested if they could submit their written views on the Bill later.

The Committee questioned, made comments and seek clarification from them on the different issues covered in the Bill.

The evidence concluded and the Chair thanked the two witnesses for their attendance and reminded them to make written submissions on the Income Tax (Amendment) Bill 2014.

**3. Closing**

Chair once again acknowledge and thank the two witnesses for appearing before the Committee.

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## APPENDIX 2: WITNESSES

The following witnesses appeared before the Bills and Legislation Committee;

Date of appearance	Name	Ministry/Institution represented	Position/Job title
Wednesday 16 <sup>th</sup> April 2014	Shadrack Fanega	Ministry of Finance (MOFT)	PS
	Barnabas Anga	Ministry of Mines	PS
	Ranjit Hewagama	AG Chambers	Chief Legal Draftsman
	Aylton Neale Jamieson	Inland Revenue Division, MOFT	Commissioner
	George Henry Tupo	Inland Revenue Division, MOFT	Deputy Commissioner
	Selwyn Takana	Economic Reform Unit (ERU), MOFT	Director
	Katherine T	ERU, MOFT	Senior Advisor
	Mckinnie Dentana	ERU, MOFT	Under Secretary
	Rictor Heaboe	ERU, MOFT	Officer
Thursday 17 <sup>th</sup> April 2014	Trevor Wright	Axiom KB Ltd	Exploration Manager
	Carlos Maelaua	Axiom KB Ltd	Senior Geologist