

(No.2)

THE INCOME TAX (AMENDMENT) BILL - (NAME OF BILL) 1991

CONTENTS: Bill
Objects and Reasons
Notice of Presentation
Covering letter from Minister to Clerk to Parliament
(Authorisation from Minister of Finance under s.60 of Constitution)

FROM: Attorney General's Chambers 11/12/91

TO: Minister *[Signature]* 11/12/91
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)

TO: Minister of Finance *[Signature]* 12/12/91
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)

TO: Clerk to National Parliament *[Signature]* 12/12/91
(for certificate by Speaker)

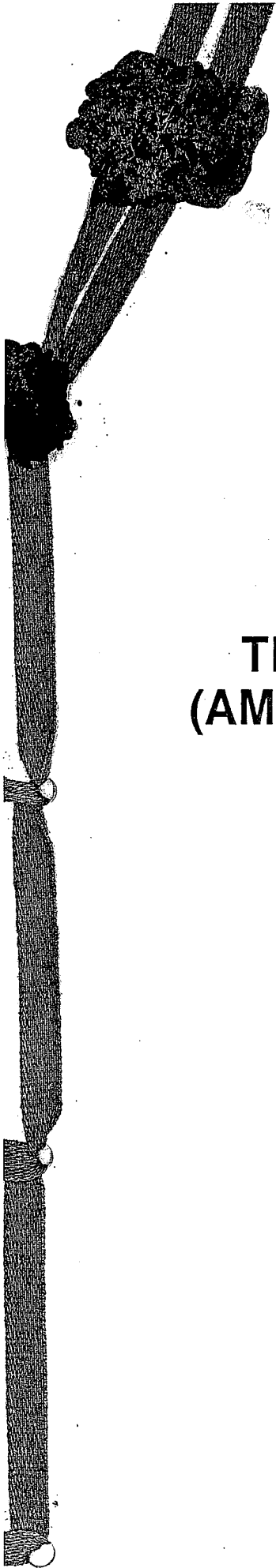
TO: Attorney General's Chambers
(for printing)

TO: Clerk to National Parliament *[Signature]*
(for reference during 1st, 2nd and 3rd Readings)
(Date passed: 18/12/91 Act No. 19/91)

TO: Attorney General's Chambers
(for checking before Assent)

TO: Governor-General *[Signature]* 17/1/92
(for Assent) *[Signature]* 22/1/92

TO: Clerk to National Parliament
(for distribution):
1 copy Attorney General's Chambers
1 copy Ministry 27/1/92
1 copy Parliament Office
1 copy Registrar of the High Court



**THE INCOME TAX
(AMENDMENT) (NO. 2)
ACT 1991
(NO. 10 OF 1991)**



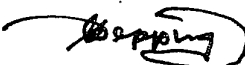
**THE INCOME TAX
(AMENDMENT) (NO. 2)
ACT 1991**
(NO. 10 OF 1991)

Passed by the National Parliament this eighteenth day of December 1991.

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 twenty-third day of January 1992.


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) (No. 2) ACT 1991

ARRANGEMENTS OF SECTIONS

Section:

1. Short title and commencement.
2. Amendment of section 34 of Cap. 61.
3. Amendment of section 42.
4. Insertion of new section 48A.
5. Insertion of new section 50A.
6. Insertion of new section 56A.
7. Amendment of section 80.
8. Insertion of new section 80A.
9. Insertion of new section 81A.
10. Amendment of Seventh Schedule.

1. This Act may be cited as the Income Tax (Amendment) (No. 2) Act, 1991, and shall come into operation on such date as the Minister may appoint, by notice published in the Gazette.

Short title
and commence-
ment.

2. Section 34 of the Income Tax Act (hereinafter referred to as the "principal Act") is hereby amended in the following respects -

Amendment
of section
34 of Cap. 61.

- (a) in subsection (2) by inserting immediately after the definition of "interest" the following new definition -
 " "lease income" means gross payments received from -
 (a) leasing of any plant, equipment or machinery; or
 (b) chartering or hiring of fishing vessels or related vessels for the purpose of fishing."; and
 (b) in subsection (3) by adding at the end thereof the following new paragraph as paragraph (h) -
 "(h) lease income."

3. Section 42(1)(i) of the principal Act is hereby amended by adding immediately after paragraph (b) the following new paragraph as paragraph (c) -

Amendment
of section
42.

- "(c) from any other source other than business or employment; or".

4. The principal Act is hereby amended by inserting therein immediately after section 48 the following new section as section 48A -

Insertion of
new section
48A.

- "Penalty for failure to furnish return. 48A. Where any person carrying on business in Solomon Islands -
 (a) fails to make a return for any year in respect of his business as required under this Act; or
 (b) fails to comply with a notice in writing given to him by the Commissioner under subsections (2), (3) or (4) of section 48, requiring such person to furnish a return of income, the Commissioner, may by notice in writing -
 (i) impose on such person a penalty of a sum of five

(ii) require such person to furnish such return within such period as may be specified in such notice.

(2) Where a person fails to furnish the Commissioner with a return within such period as specified in the notice issued under subsection (1), such person shall be liable to pay an additional penalty of fifty dollars in respect of each month such return remains outstanding.

(3) The Commissioner may waive the penalty or the additional penalty imposed on such person under this section, if such person proves to the satisfaction of the Commissioner, that his failure to furnish a return was due to circumstances beyond his control and that he has, after the imposition of the penalty furnished such return.

(4) Any penalty imposed under the provisions of this section shall not relieve any person from liability for which he may be liable to be prosecuted for an offence under section 81 or from the additional tax payable under section 56 of the Act.”.

Insertion of new section 50A.

5. The principal Act is hereby amended by inserting therein immediately after section 50 the following new section as section 50A -

“Power to obtain information and evidence.

50A.(1) The Commissioner or any officer authorised in that behalf by him shall at all reasonable times have full and free access to any land, building, or place, and to any record, whether in custody or under control of a public officer, or a body corporate, or any other person whatsoever, for the purpose of inspecting any such record and any property, process or matter which the Commissioner or officer considers necessary or relevant for the purpose of collecting any tax under the Act, or for the purpose of carrying out any other function lawfully conferred on the Commissioner, or considers likely to provide

any information otherwise required for the purposes of this Act or any of these functions, and may, without fee or reward, make extracts from or copies of any such record.

(2) The Commissioner or any other authorised officer may for the purposes of any investigation under this section, require the owner or manager of any property or business which is being investigated, or any other person employed or previously employed, in connection with the property or business, to give him all reasonable assistance in the investigation and to answer all proper questions relating to any such investigation either orally or, if the Commissioner or officer so requires, in writing, require the owner or manager or in the case of a company, any officer of the company to attend at the premises with him.

(3) In this section "record" has the meaning ascribed thereto in the Pay-roll Tax Act."

6. The principal Act is hereby amended by inserting therein immediately after section 56 the following new section as section 56A -

Insertion of new section 56A.

| | | |
|---|------------------------------------|---|
| <p>"Failure to make deduction or misapplication of deduction.</p> | <p>56A.(1) Where an employer -</p> | <p>(a) fails to make a deduction of tax as required under the provisions of this Act or any rules made under section 98; or</p> <p>(b) makes a deduction for the purposes of this Act or rules, or purporting to be for those purposes, and fails to remit the amount so deducted to the Commissioner in whole or in part, or applies such deduction for any purpose other than remitting such deduction to the Commissioner,</p> <p>the Commissioner may, where he is satisfied that such failure or misapplication of such deduction, was not due to any cause beyond the control of the employer, charge such employer an additional amount, not exceeding</p> |
|---|------------------------------------|---|

double the amount payable or remaining outstanding, as the case may be, on the due date.

(2) The provisions of section 56(4), (5) and (6) shall, *mutatis mutandis*, apply in respect of any additional tax payable under the provisions of this section.”.

Amendment of section 80.

7. Section 80 of the principal Act is hereby amended by deleting therefrom the words “four hundred” and “six months” and substituting therefor the words “one thousand” and “twelve months” respectively.

Insertion of new section 80A.

8. The principal Act is hereby amended by inserting therein immediately after section 80 the following new section as section 80A.

‘Further penalty in certain cases.

80A.(1) Where any tax payable by any employer remains unpaid on and after the date it is required to be paid under the provisions of this Act or the Tax Deduction Rules, 1981, and any further time allowed (if any) by the Commissioner has expired, such employer shall in addition to the penalty payable under section 71 be liable to pay where -

- (a) it is paid within one month after that date, a penalty at the rate of five per centum on the amount due; and
- (b) it is not paid within one month, but is paid within six months after that date, a penalty at the rate of ten per centum;
- (c) it is not paid as referred to in paragraph (a) or (b) a penalty at the rate of fifteen per centum in respect of each further period of six months or part of such period.

(2) The Commissioner may, reduce or waive any penalty under this section if it appears to the Commissioner that such reduction or waiver is just and equitable in all the circumstances of the case.

(3) The provisions of this Act relating to the collection and recovery of tax shall, *mutatis mutandis*, apply to the collection and recovery of such penalty as if it were a tax.

9. The principal Act is hereby amended by inserting therein immediately after section 81 the following new section as section 81A -

Insertion
of new
section 81A.

“Penalty 81A. Where any employer who is required to
for failure to make deduction, (a) fails to make such deduction;
misapplication of deduction, (b) having made such deduction applies
etc. (c) such amount for any purpose other than remitting it to the Commis-
sioner;
(c) fails to remit the amount due;
(d) makes a false tax code declaration;
(e) fails to furnish annual summaries as required under the Tax Deduction Rules, 1981;
(f) gives false information regarding tax deductions, or tax codes; or
(g) gives false information in relation to any matter or thing in the annual summary,

shall be guilty of an offence under this Act.”.

10. The Seventh Schedule to the principal Act is hereby amended in the following respects -

Amendment
of Seventh
Schedule.

- (a) by deleting the words “2.5¢” that appear under the heading “rate” in respect of item (v) and substituting therefor the words “5¢”; and
- (b) by adding at the end thereof under the appropriate headings the following -
“(x) lease income 15¢ in the dollar.”.

