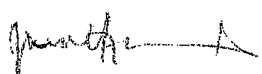
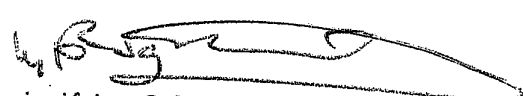
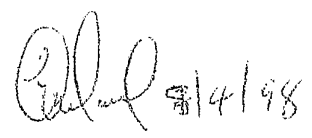
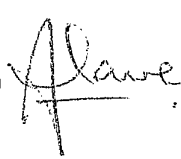



INTRODUCTION FILE

THE INCOME TAX (AMENDMENT) BILL 1998
(NAME OF BILL)

- 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 
8/4/98
- TO: Minister
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)
- 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) 8/4/98
- TO: Attorney General's Chambers
(for printing)
- TO: Clerk to National Parliament
(for reference during 1st, 2nd and 3rd Readings)
(Date passed.....14/4/98. Act No. 2/98...)
- TO: Attorney General's Chambers 
(for checking before Assent)
- TO: Governor-General 
(for Assent)



**THE
INCOME TAX
(AMENDMENT) ACT 1998
(NO. 2 OF 1998)**



THE INCOME TAX (AMENDMENT) ACT 1998

(NO. 2 OF 1998)

Passed by the National Parliament this fourteenth day of April 1998.

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.

Elizabeth Andresen
Elizabeth Andresen
Acting Clerk to National Parliament

Assented to in Her Majesty's name and on Her Majesty's behalf this third day of June 1998.

Paul J. Tovua
Paul J. Tovua
Acting Governor-General

AN ACT To Amend the Income Tax Act, (Cap. 61).

ENACTED by the National Parliament of Solomon Islands.

THE INCOME TAX (AMENDMENT) ACT 1998

ARRANGEMENT OF SECTIONS

Section:

1. Short title and commencement.
2. Amendment of section 2 of Cap 61.
3. Amendment of section 3.
4. Amendment of section 4.
5. Amendment of section 5.
6. Amendment of section 11F.
7. Amendment of section 14A.
8. Amendment of section 17.
9. Amendment of section 32B.
10. Amendment of section 34.
11. Amendment of section 36A.
12. Amendment of section 42.
13. Amendment of section 48A.
14. Amendment of section 50A.
15. Amendment of section 57.
16. Amendment of section 64.
17. Amendment of section 74.
18. Amendment of section 76.
19. Insertion of new sections 76A and 76B.
20. Amendment of section 79.
21. Amendment of section 94.

Short title and commencement.

1. This Act may be cited as the Income Tax (Amendment) Act, 1998, and shall come into force on such date as the Minister may appoint by notice published in the Gazette.

Amendment of section 2 of Cap 61.

2. Section 2 of the Income Tax Act (hereinafter referred to as the "principal Act") is hereby amended by deleting the definition of "incapacitated person" and substituting therefor the following new definition -

"incapacitated person" means any infant, idiot, insane person or person of unsound mind;"

Amendment of section 3.

3. Section 3 of the principal Act is hereby amended in the following respects -

(a) by deleting subsection (1) and substituting therefor the following new subsection -

" (1) accrued in, was derived from or was received in Solomon Islands or elsewhere in the case of a resident person;" and

(b) by inserting in subsection (2) immediately after paragraph (d) the following new paragraph as paragraph (dd) -

" (dd) income from any other source whatsoever;"

Amendment of section 4.

4. Subsection (1) of section 4 of the principal Act is hereby amended by inserting after paragraph (b) the following new paragraph as paragraph (bb) -

" (bb) business in the case of a non-resident person includes business transacted directly or through an agent;"

Amendment of section 5.

5. Subsection (1) of section 5 of the principal Act is hereby amended in paragraph (a) by inserting after the words "or other allowances" the words "or perquisites or other benefits whatsoever".

Amendment of section 11F

6. Paragraph (a) of section 11F of the principal Act is hereby amended by inserting after the words "further period of five years thereafter," the words "if applicable,".

7. Section 14A of the principal Act is hereby amended in the following respects -

Amendment
of section
14A.

(a) by deleting the full stop that appears at the end of subsection (2) and substituting therefor a colon;

(b) by adding next after the colon so inserted the following proviso -

“ Provided, however, that the carrying forward of losses to be set off against the income derived from a subsequent year shall not be granted for a period exceeding five years”; and

(c) by deleting from subsection (4) the words “11 or”.

8. Subsection (2) of section 17 of the principal Act is hereby amended by deleting the words “business in connection with” and substituting therefor the words “business in conjunction with”.

Amendment
of section 17.

9. Subsection (1) of section 32B is hereby amended by deleting the words “ten thousand” and substituting therefor the words “twenty thousand”.

Amendment
of section 32B

10. The definition of “professional services” in subsection (2) of section 34 of the principal Act is hereby amended in the following respects -

Amendment
of section 34.

(a) by deleting the semi colon that appears at the end of subparagraph (ii) and substituting therefor a colon; and

(b) by inserting after the colon so inserted the following subparagraph -

“ The word payment in this definition includes commissions whether on sales or otherwise.”

11. Section 36A of the principal Act is hereby amended in the following respects -

Amendment
of section
36A.

(a) in subsection (3) by adding after the words “to any Council” the words “or any licensing authority”; and

(b) by deleting subsection (4) and substituting therefor the following new subsection -

“ (4) No Council or licensing authority shall issue a business licence to any person unless such person produces to the Council or the licensing authority, as the case may be, the Inland Revenue number issued in respect of that business.”

Amendment of section 42. 12. Section 42 of the principal Act is hereby amended by inserting the following new subsection as subsection (4) -

“ (4) The foregoing provisions of this section shall apply *mutatis mutandis* to a married man living with his wife.”

Amendment of section 48A. 13. Section 48A of the principal Act is hereby amended by inserting the following new subsections as subsections (5) and (6) respectively -

“ (5) A penalty imposed under this section shall not be regarded as tax for the purposes of this Act.

(6) Notwithstanding the provisions of subsection (5), the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of a penalty imposed under this section as if it were a tax.”

Amendment of section 50A. 14. Subsection (1) of section 50A of the principal Act is hereby amended by inserting at the end thereof the following words -

“ or remove any such records for retention by the Commissioner for such periods as he may consider necessary”.

Amendment of section 57. 15. Paragraph (a) of subsection (2) of section 57 of the principal Act is hereby amended by inserting immediately before the semicolon that appears at the end thereof the words “subject to any adjustments considered necessary”.

Amendment of section 64. 16. Section 64 of the principal Act is hereby amended in the following respects -

(a) by renumbering the present section as subsection (1) thereof; and

(b) by inserting after the subsection so renumbered the following as subsection (2) -

“ (2) Where the assessment objected to has been made in the absence of a return, the notice of objection shall not be valid unless it is sent with a return of income duly made.”

17. Section 74 of the principal Act is hereby amended in the following respects -

Amendment of section 74.

- (a) in subsection (2) -
 - (i) by deleting all the words that appear after the words “the Commissioner shall be entitled to” and substituting therefor the words “take forthwith such action under sections 72, 75 or 76 as appropriate for recovery of the tax”;
 - (ii) by deleting the proviso thereto and substituting therefor the following new proviso -

“ Provided that, if subsequent to the commencement of any suit under section 75 or other action for recovery of the tax, compliance is made with such notice, then such suit or other action shall be discontinued and no order for costs in respect of any suit under section 75 or other action shall be made”;

- (b) in subsection (3) -
 - (i) by inserting immediately after the words “that any person” appearing in line two the words “who is about to leave or is likely to leave Solomon Islands has derived or”;
 - (ii) by inserting at the end of that subsection the words “whether or not an assessment has been made”; and
- (c) by adding immediately after subsection (3A) the following new subsection as subsection (3B) -

“ (3B) In relation to any person, (other than a person referred to in subsection (3A)), by whom payment of tax is overdue or the Commissioner in his discretion deems it expedient so to do having regard to the recovery of tax, whether or not an assessment has been made, the Commissioner may by notice in writing direct the Central Bank of Solomon Islands that no foreign exchange remittances be permitted to such person without the consent of the Commissioner; whereupon the Central Bank shall notify the commercial banks accordingly to give effect to such directions.”

Amendment
of section 76.

18. Subsection (1) of section 76 of the principal Act is hereby amended in the following respects -

(a) by deleting the words “instead of suing for such tax”; and

(b) by deleting the proviso to that subsection.

Insertion of
new sections
76A and 76B.

19. The principal Act is hereby amended by inserting immediately after section 76 the following new sections as sections 76A and 76B respectively -

“Use of
other means
of recovery

76A. Where the Commissioner is of the opinion that the application of any of the provisions of this Part has failed or is likely to fail to secure payment of the whole or any part of tax due from any person, it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery notwithstanding that an order has been made by a Court in proceedings under section 75.

Remission
of tax in the
absence of
valid objection

76B. In any action for recovery of tax payable on an assessment to which there is no valid objection, the Commissioner may, on being satisfied that such tax is in excess of the tax that would have been payable had there been a valid objection to the assessment, amend the assessment and remit such excess tax, notwithstanding the provisions of section 68 as to the finality of an assessment and the Commissioner's decision as to the amendment of the assessment and remission of the tax shall be final.”

20. Subsection (2) of section 79 is hereby amended by deleting the words "may remit" and substituting therefor the words "may in consultation with the Commissioner remit,". Amendment of section 79.

21. Subsections (1) and (2) of section 94 are hereby amended by deleting the words "one thousand" that appear in those subsections and substituting therefor the words "four thousand". Amendment of section 94.

