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ACT NO. 1 OF 2003



I assent.

[L.S.]

J. I. ULUIVUDA
President

[21st March, 2003]

AN ACT

TO AMEND THE INCOME TAX ACT

[1st January, 2003]

ENACTED by the Parliament of the Fiji Islands—

Short title and commencement

1.—(1) This Act may be cited as the Income Tax (Budget Amendment) Act 2003 and is deemed to have come into force on 1st January 2003.

(2) In this Act “principal Act” means the Income Tax Act (Cap. 201).

Normal Tax

2. Section 7(1) of the principal Act is amended in paragraph (a) by deleting “\$6,500” wherever it occurs and substituting “\$7,500”.

Non-resident miscellaneous withholding tax

3. Section 8A of the principal Act is amended in subsection (2) by—
- (a) inserting “and” after semi-colon in paragraph (a);
 - (b) deleting “; and” after “made” in paragraph (b)(ii); and
 - (c) repealing paragraph (c).

Income Tax (Budget Amendment) — 1 of 2003

Resident interest withholding tax

4. Section 9A of the principal Act is amended—
- (a) in subsection (2) by—
- (i) repealing paragraph (c) and substituting the following new paragraph—
- “(c) in the year of assessment 2003 – at the rate of 32%.”; and
- (ii) inserting the following new paragraph after paragraph (c)—
- “(d) in every subsequent year of assessment—at the rate of 30%.”; and
- (b) in subsection (14) by deleting “prescribe” and substituting “approve, which may include an electronic version,”.

Definition of total income

5. Section 11 of the principal Act is amended—
- (a) in paragraph (j) by deleting “, otherwise than a sum to which paragraph (o) applies” after “employment or service”;
- (b) by repealing paragraph (n); and
- (c) by repealing paragraph (o).

Incomes not taxable

6. Section 17 of the principal Act is amended—
- (a) by repealing sub-paragraph (iii) of paragraph (13) and substituting the following new sub-paragraph—
- “(iii) any lump sum or refund of contributions received in respect of an approved superannuation or retirement scheme, which is paid to a contributor, or in the case of his or her death to the person entitled thereto.”;
- (b) by repealing paragraph (43);
- (c) in paragraph (50) by inserting “ or non-resident” after “resident”; and
- (d) by deleting the full-stop at the end of paragraph (58), substituting a semi-colon and inserting the following new paragraph—
- “(59) any payment received in respect of alimony and maintenance.”.

Expenses deductible

7. Section 21 of the principal Act is amended in subsection (1) by—
- (a) repealing paragraph (b) and substituting the following new paragraph—
- “(b) any sum paid by the employer for the year in respect of an employee to an approved fund or to the Fiji National Provident Fund, less any amount that is recovered from the employee in respect of that contribution, shall be allowed as an expense incurred in the year in which the same is paid.”; and

(b) inserting a new sub-paragraph after paragraph (r)(ii)—

“(iii) Notwithstanding the provisions of sub-paragraphs (i) and (ii), the deduction is restricted to salary and wages paid in respect of the 12-month period commencing from the date of the appointment of the employee.”

Export income deduction

8. Section 21B of the principal Act is amended in subsection (3) by inserting “but excludes re-exports” after “services”.

Losses

9. Section 22 of the principal Act is amended—

(a) in subsection (1)(b)(v) by deleting “for the next 8 years in succession”; and

(b) by repealing subsection (5) and substituting the following new subsection—

“(5) Subject to the other provisions of this section, in the case of a person entitled to an allowance or any other relief or deduction under the Hotels Aid Act, the period of 8 years referred to in paragraph (b) of subsection (1) shall be extended by a further 5 years.”

Deductible amounts

10. Section 26 of the principal Act is amended in subsection (1)(f) by deleting “, but not exceeding \$480 per annum”.

Chargeable income of non-resident individual

11. Section 31 of the principal Act is amended by repealing subsection (2).

Return by employers of salary and by companies of dividends, etc.

12. Section 47 of the principal Act is amended by inserting “, which may include an electronic version,” after “approve” in the last line before the proviso.

Provisional tax and tax deducted from emoluments to be credited against tax assessed

13. Section 61 of the principal Act is amended in subsection (3) by deleting “\$2” and substituting “\$5”.

Deduction from moneys payable to a taxpayer

14. Section 75 of the principal Act is amended in—

(a) subsection (1) by deleting “valid and binding either under the provisions of section 62 or any other section of this Act” and substituting “due and payable”;

(b) subsection (7) by deleting “valid and binding” and substituting “due and payable”; and

(c) subsection (8) by deleting “valid and binding under the provisions of section 62” and substituting “due and payable”.

When provisional tax payable.

15. Section 85 of the principal Act is amended in subsection (2) by deleting “\$20” and substituting “\$120”.

Advance payment of tax by companies

16. Section 91 of the principal Act is amended—

(a) in subsection (1) by—

- (i) deleting “and” after the semi-colon in paragraph (a);
- (ii) deleting the full-stop and substituting “; and” in paragraph (b);
- (iii) inserting after paragraph (b) the following new paragraph—

“(c) within 7 months of the last day of the fiscal year, 100 per cent of the amount of tax estimated as aforesaid less the amount paid in terms of paragraphs (a) and (b);” and

(iv) inserting the following new proviso after the new paragraph (c)—

“Provided that when an assessment is issued prior to an advance company tax instalment becoming due, the amount of any tax liability will need to be paid by the date specified in the notice of assessment issued under section 55.”;

(b) by inserting after subsection (1) the following new subsection—

“(2) The provisions of paragraph (c) of subsection (1) will only apply with respect to the 2002 and subsequent income years.”; and

(c) renumbering former subsection (2) as subsection (3).

Additional tax payable by companies when advance payments are less by more than 20 per cent of final liability

17. Section 92 of the principal Act is amended by—

(a) inserting after subsection (1) the following new subsection—

“(2) If the amounts of the advance payments of tax required to be paid under the provisions of subsection (1) of section 91 are less by more than 20 per cent, at the expiry of 7 months after the last day of a company’s fiscal year, of 100 per cent of the tax for that year of assessment as finally assessed by the Commissioner in accordance with the provisions of section 55, then the company shall be liable to pay to the Commissioner, by way of additional tax, an amount equal to 10 per cent of the difference between the amount of the advance payment made and 100 per cent of the liability to tax as finally assessed”, and

(b) renumbering former subsection (2) as subsection (3).

Allowances under the Hotels Aid Act

18. Section 105 of the principal Act is amended in subsection (1) by—
- (a) deleting “such deduction exceeds” and substituting “where total deductions exceed”; and
 - (b) repealing paragraph (a).

Rates of normal tax

19. The Fourth Schedule to the principal Act is amended by deleting Tables A3, B3 and C3 and inserting the following new tables—

“Table A3 — Year of assessment 2003

<i>Chargeable income</i> \$	<i>Tax payable</i> \$
0– 7,500	Nil
7,501–10,000	15% of excess over \$7,500
10,001–20,000	375 + 25% of excess over \$10,000
20,001 +	2,875 + 32% of excess over \$20,000

Table A4 — Year of assessment 2004 and subsequent years

<i>Chargeable income</i> \$	<i>Tax payable</i> \$
0– 7,500	Nil
7,501–10,000	15% of excess over \$7,500
10,001–20,000	375 + 25% of excess over \$10,000
20,001 +	2,875 + 30% of excess over \$20,000

Table B3 — Year of assessment 2003

<i>Chargeable income</i> \$	<i>Tax payable</i> \$
0– 7,500	20% of excess over \$0
7,501–10,000	1,500 + 25% of excess over \$7,500
10,001–20,000	2,125 + 30% of excess over \$10,000
20,001 +	5,125 + 32% of excess over \$20,000

Table B4 — year of assessment 2004 and subsequent years

<i>Chargeable income</i> \$	<i>Tax payable</i> \$
0– 7,500	20% of excess over \$0
7,501–10,000	1,500 + 25% of excess over \$7,500
10,001 +	2125 + 30% of excess over \$10,000

Table C3 — Year of assessment 2003

(a) Every company, other than companies to which paragraph (b), (c) or (d) applies.....	32%
(b) Mutual insurance companies in respect of life insurance business.....	30%
(c) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under section 37(1).....	30%
(d) Non-resident shipping companies.....	2%

Table C4 — Year of assessment 2004 and subsequent years

(a) Every company, other than companies to which paragraph (b), (c) or (d) applies.....	30%
(b) Mutual insurance companies in respect of life insurance business.....	30%
(c) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under section 37(1).....	30%
(d) Non-resident shipping companies.....	2%

*Audio-visual productions***20. Paragraph 12 of the Sixth Schedule is amended—**

- (a) by repealing sub-paragraph (f) and substituting the following new sub-paragraph—

“(f) computer software for use solely in relation to sub-paragraphs (a), (b), (c), (d) or (e) of this paragraph; and”;

- (b) by repealing sub-paragraph (g) and substituting the following new sub-paragraph—

“(g) interactive websites and other e-commerce and telecommunications operations for use solely in relation to sub-paragraphs (a), (b), (c), (d), or (e) of this paragraph.”.

*Deemed audio-visual productions***21. Paragraph 13 of Sixth Schedule is amended by inserting “for use solely in relation to sub-paragraphs (a), (b), (c), (d) or (e) of paragraph 12” after “e-commerce businesses”.***Division 7 — Definitions***22. Paragraph 44 of the Sixth Schedule is amended by repealing the definition of “production activity” and substituting the following new definition—**

““production activity” means any activity in the production of, world-wide distribution of, conduct of business in, or supply of services to;

- (a) a large format film in large format theatres;
- (b) a theatrical film or a short film in cinemas;
- (c) broadcast television programmes by—
 - (i) broadcast on free-to-air, satellite or pay television; or
 - (ii) internet broadcast;
- (d) a direct-to-video and video disk programme;
- (e) an audio recording;
- (f) computer software; and
- (g) interactive websites and other e-commerce and telecommunications operations;”.

FAVC to consider and decide applications

23. Paragraph 48 of the Sixth Schedule is amended in sub-paragraph 2(a) by deleting “produce, distribute or contribute specialised services to the production and distribution of audio-visual productions “ and substituting “engage in a production activity”.

Division 8—Definitions

24. Paragraph 58 of the Sixth Schedule is amended in sub-paragraph (a) by inserting “or production activities” after “AVPs” in line one and line two.

Passed by the House of Representatives this 19th day of February 2003.

Passed by the Senate this 13th day of March 2003.