

BILL NO. 20 OF 2015

A BILL

FOR AN ACT TO AMEND THE TAX ADMINISTRATION DECREE 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 (Amendment) Act 2015.
- (2) This Act shall come into force on the date of its publication in the Gazette.

New section 48A inserted

2. The Tax Administration Decree 2009 is amended by inserting the following new section after section 48—

“Waiver of tax during amnesty period

- 48A.—(1) For the purpose of this section, unless the context otherwise requires—
- “amnesty” means the waiver of any tax payable in respect of any foreign asset, including any interest accrued from, or any penalty or fine imposed, in respect of such tax for any tax period provided that the tax period is prior to 1 January 2016;
- “amnesty period” means the period commencing on and from 1 January 2015 to 15 October 2015;

“applicant” means a qualifying person who applies under subsection (3);

“foreign asset” means any asset outside of Fiji or income derived from the asset outside of Fiji, that is declared during the amnesty period; and

“qualifying person” means a person who is a tax resident and Fiji citizen, required to declare their foreign asset under any tax law.

(2) Any qualifying person may, within the amnesty period, apply for amnesty under subsection (3).

(3) An application for amnesty shall be made in writing to the Chief Executive Officer and such application shall include a declaration of any foreign asset and other information as the Chief Executive Officer may require.

(4) Notwithstanding any other provision in this Decree, upon receipt of an application under subsections (2) and (3) and if the Chief Executive Officer is satisfied that the applicant is a qualifying person, the Chief Executive Officer shall grant amnesty to the applicant.

(5) Pursuant to subsection (4), the Chief Executive Officer shall, as the case requires, remit in whole any tax payable by the qualifying person in respect of the foreign asset, including any interest accrued from, or any penalty or fine payable, in respect of such tax for any tax period provided that the tax period is prior to 1 January 2016.

(6) If an applicant is not granted amnesty under subsection (4), the Chief Executive Officer shall, as soon as practicable, provide written reasons to the applicant for the refusal.”

TAX ADMINISTRATION (AMENDMENT) BILL 2015

EXPLANATORY NOTE

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

1.0 BACKGROUND

- 1.1 As announced in the 2015 Budget, all Fijians who have 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 of six months upon which they could declare their foreign assets without any tax liability, penalty or fine on the foreign assets.
- 1.2 The amnesty period commenced on 1 January 2015, however, the recent extension of the amnesty period to 15 October 2015 has now allowed an additional grace period for more Fijians to continue to come forward and declare their foreign assets to FRCA.
- 1.3 To date, approximately \$17 million worth of assets have been declared. Given the value of foreign assets declared so far, it is proposed that there be legal amendments made to the Tax Administration Decree 2009 (**‘Decree’**) to encourage and entice more declarations.
- 1.4 The feedback from the market has been that more declarations would be made if a specific provision was provided for in the law to give legal certainty.

2.0 CLAUSES

- 2.1 Clause 1 provides for the short title and states that the new Act will come into force on the date of its publication in the Gazette.
- 2.2 Clause 2 amends the Decree by inserting a new section after section 48. The new section 48A introduces the provisions relating to the waiver of tax on foreign assets declared during the amnesty period.

4

2.3 In order for a person to qualify for the waiver of any tax payable in respect of any foreign asset, including any interest accrued from, or any penalty or fine payable, in respect of such tax, he or she has to be a tax resident and a Fijian, and should declare their foreign asset during the amnesty period.

2.4 The qualifying person will have to apply in writing for amnesty to the Chief Executive Officer of FRCA to be able to qualify for the amnesty provided for under the Decree.

2.5 The amnesty that will be given to a qualifying person, who has declared their foreign assets during the amnesty period, is that he or she will not be subject to any tax payable in respect of any foreign asset, including any interest accrued from, or any penalty or fine imposed, in respect of such tax for any tax period provided that the tax period is prior to 1 January 2016.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Decree comes under the responsibility of the Minister responsible for Finance.

A. SAYED-KHAIYUM
Attorney-General