Income Tax (Budget Amendment) Bill 2017

Bill No. 19 of 2017

Introduction

The **Income Tax (Budget Amendment) Bill 2017** ('Bill') seeks to amend the *Income Tax Act 2015* ('Act').

Included within the Budget announcements was the renaming of the Environment Levy with the Environment and Climate Adaption Levy (ECAL). Income earners with annual incomes of $270,000 and over will pay an ECAL of 10 per cent and a reduced Social Responsibility Tax (SRT). Together, the same rate of tax applies.

Objectives, scope and intent of the Bill

The main objective of the Income Tax (Budget Amendment) Bill 2017 ('Bill') is to amend the *Income Tax Act 2015* ('Act') to be consist with the 2017–18 Budget.

The Budget included a new Environment and Climate Adaptation Levy (ECAL), which will replace the Environment Levy. In the Bill, the ECAL will be included as part of the definition of the Social Responsibility Tax (SRT). The ECAL portion of the SRT will be paid into the Climate Change and Environment Fund. In the *Budget Estimates 2017–18* the total amount of ECAL revenue received from all sources is estimated to be $94.3 million in the 2017–18 financial year, up from a revised estimate of $77.5 million in the 2016–17 financial year. The ECAL is also charged against businesses who used to pay the Environmental Levy, while also replacing the Super Yacht Charter Fee.

In this Bill, the SRT will not be payable on one-off payments or receipts received as part of income, such as gain from a sale of an asset, redundancy payments, retiree allowance, gratuity allowance and exit inducement payments.

The Bill removes the **dividend tax** of 3 per cent for residents and 9 per cent for non-residents. As a result, dividend income will become tax-free. A 1 per cent transitional tax will be levied on pre-2014 retained earnings balances as at 30 June 2017. There will be a three-month window granted to complete the payment of the transitional tax.

The Bill makes the provision of **health insurance** cover to an employee (who is a Fijian citizen) exempt from **Fringe Benefit Tax**.

Summary of provisions

Clause 1 provides that the short title for this Bill, once passed by Parliament, be ***"Income Tax (Budget Amendment) Act 2017"*** and come into force on **1 August 2017**.

Clause 2 amends **section 2** of the Act by inserting "*, a proportion of which is the Environment and Climate Adaptation Levy payable under Part 4 of the Environment and Climate Adaptation Levy Act 2015*" after the words "section 8" in the definition for "Social Responsibility Tax".

Clause 3 amends **section 8** of the Act by inserting a new subsection (8):

> *"(8) Notwithstanding subsection (2), Social Responsibility Tax is not payable on the portion of chargeable income derived from a one-off payment or receipt prescribed by regulations.".*

Clauses 4 amends **section 10** of the Act by removing reference to dividends. The Bill removes the dividend tax of 3% for residents and 9% for non-residents. **This means there will be no dividend taxation regime and all dividend income will be exempted from taxation**.

Clause 5 deletes **section 20A** of the Act, "Deemed dividend distribution" to be consistent with the removal of the dividend tax.

Clause 6 amends **section 25(8)** of the Act, inserting the 2017 year of assessment for the calculation of a deduction for those persons exporting goods or services. Fifty per cent of export income can be deducted in the 2017 assessment year (the same rate as at 2016 assessment year).

Clause 7 amends **section 71(1)** of the Act to include the provision of a health insurance cover to an employee who is a Fijian citizen, as an exempt fringe benefit. After paragraph (f) it inserts the following new paragraph:

> *"(g) the provision of a health insurance cover to an employee who is a Fijian citizen.".*

Clause 8 amends **section 102** of the Act to strengthen the anti-avoidance provisions by removing the requirement for a "main" or "dominant" tax avoidance purpose. Section 102 of the Act will be invoked as long as one of the purposes of the scheme is "tax avoidance". The definition of "tax avoidance scheme" is deleted in 102(5), and substituted with—

> *""tax avoidance scheme" means any scheme, whether entered into by a person affected by the scheme or by another person, that directly or indirectly—*
> *(a) Has tax avoidance as its purpose or effect; or*
> *(b) Has tax avoidance as one of its purposes or effects, if the tax avoidance purpose or effects, if the tax avoidance or effect is not merely incidental;".*

Clause 9 amends **section 112** of the Act by deleting "and dividends" from the heading, and deleting "(1)" and deleting subsection (2).

Clause 10 amends **section 125(1)** of the Act for consistency with the removal of the dividend tax. Section 125(1) of the Act is amended by—

- (a) in paragraph (b)—
  - (i) deleting "section 112(1)" and substituting "section 112"; and
  - (ii) after ";", inserting "or"; and
- (b) in paragraph (c)—
  - (i) deleting "section 112(1)" and substituting "section 112"; and
  - (ii) in subparagraph (ii), deleting "; or" and substituting "."; and
- (c) deleting paragraph (d).

Clause 11 inserts a new section 143A, after section 143 to address the issue of transitional undistributed profits of company profits derived prior to the 2014 tax year. A 1 per cent transitional tax will be levied on pre-2014 retained earnings balances as at 30 June 2017. Payment needs to be made on or before 30 September 2017. A company who fails to pay tax before the due date is liable to a penalty of 75 per cent of the amount of the unpaid tax. A further penalty of 5 per cent of the amount of unpaid tax is charged for each month of default.

Gender analysis

The Bill does not appear have any disproportionate impact on women or men.