

# BILL NO. 8 OF 2019

## A BILL

### FOR AN ACT TO AMEND THE TAX ADMINISTRATION ACT 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 (Budget Amendment) Act 2019.

(2) This Act comes into force on 1 August 2019.

(3) In this Act, the Tax Administration Act 2009 is referred to as the “Principal Act”.

*Section 2 amended*

**2.** Section 2(1) of the Principal Act is amended after the definition of “Taxpayer Identification Number (TIN)” by inserting the following new definitions—

““trust” has the meaning given in section 2 of the Income Tax Act 2015;

“trustee” has the meaning given in section 2 of the Income Tax Act 2015;”.

*Section 33 amended*

**3.** Section 33 of the Principal Act is amended by—

(a) deleting subsection (3) and substituting the following—

“(3) The CEO must only pay a refund of overpaid tax to a taxpayer under a tax law to the taxpayer’s bank account held at a commercial trading bank.”; and

(b) after subsection (4), inserting the following new subsections—

“(5) A claim for a refund under a tax law is not admissible if the person making the claim has failed to—

- (a) file a tax return or lodge any other document as required under a tax law; and
- (b) make the claim within 3 years after the end of the year of assessment for which the refund is due unless the refund is attributable to an error made by the Fiji Revenue and Customs Service.

(6) Subsection (5) does not apply to a mission, international organisation or international body that is exempt from any tax in accordance with any written law.”.

*Section 34 amended*

4. Section 34(1) of the Principal Act is amended by—

- (a) in paragraph (a) after “maintain”, inserting “, or take reasonable care to maintain,”; and
- (b) in paragraph (b), deleting “retain such accounts, documents,” and substituting “retain, or take reasonable care to retain, such accounts, documents and records (including in electronic format)”.

*Section 36 amended*

5. Section 36 of the Principal Act is amended in the heading by deleting “summons” and substituting “notice”.

*Section 49 amended*

6. Section 49 of the Principal Act is amended by—

- (a) in the heading after “return”, inserting “or other documents”; and
- (b) in subsection (1)—
  - (i) in paragraph (a) after “;”, deleting “or”;
  - (ii) in paragraph (b), deleting “,” and substituting “; or”; and
  - (iii) after paragraph (b), inserting the following new paragraph—
 

“(c) to lodge any other document as required under a tax law,”.

*Section 70 amended*

7. Section 70 of the Principal Act is amended after “post” by inserting “or electronic means”.

*Section 72 amended*

**8.** Section 72 of the Principal Act is amended by—

- (a) in subsection (2) after “Fiji”, inserting “or an electronic address”; and
- (b) in subsection (3)—
  - (i) in paragraph (b)—
    - (A) after “post”, inserting “or electronically”; and
    - (B) before “left”, inserting “if”; and
  - (ii) deleting paragraph (c) and substituting the following—
    - “(c) if no address for service is provided in a tax return, if—
      - (i) left at, or sent by registered or normal post to, the person’s usual or last known address in Fiji; or
      - (ii) sent to the person’s last known electronic address.”.

*Section 74 amended*

**9.** Section 74 of the Principal Act is amended by deleting “is a Saturday, Sunday or public holiday, the due date is the last working day before the due date” and substituting the following—

“is a Saturday, Sunday or public holiday, the due date is—

- (i) subject to paragraph (ii), the last working day before the due date; or
- (ii) where filing, payment or any other action taken under paragraph (a), (b) or (c) is done electronically, the actual due date.”.

*Schedule 1 amended*

**10.** Schedule 1 to the Principal Act is amended in paragraph 1 by—

- (a) in subparagraph (k), deleting “and”;
- (b) in subparagraph (l), deleting “.” and substituting “; and”; and
- (c) after subparagraph (l), inserting the following new subparagraph—
  - “(m) an assessment of environment and climate adaptation levy, including a self-assessment under section 8.”.

*Schedule 3 amended*

**11.** Schedule 3 to the Principal Act is amended in Part B in paragraph 2 by deleting “109” and substituting “107, 109, 121”.

June 2019

## **TAX ADMINISTRATION (BUDGET AMENDMENT) BILL 2019**

### **EXPLANATORY NOTE**

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

#### **1.0 BACKGROUND**

1.1 The Tax Administration (Budget Amendment) Bill 2019 (**‘Bill’**) seeks to amend the Tax Administration Act 2009 (**‘Act’**).

#### **2.0 CLAUSES**

2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on 1 August 2019.

2.2 Clause 2 of the Bill amends section 2(1) of the Act to insert the definitions of “trust” and “trustee”. For consistency, these definitions are derived from the Income Tax Act 2015.

2.3 Clause 3 of the Bill replaces section 33(3) of the Act to remove the phrase “in Fiji” and thus allow refunds of overpaid tax to be paid into overseas bank accounts. Clause 3 of the Bill also inserts new subsections in section 33 of the Act to deal with claims for refunds.

2.4 Clause 4 of the Bill amends section 34(1) of the Act to mandate taxpayers to also take reasonable care in maintaining and retaining accounts, documents and records in the most appropriate manner, including in electronic form, and in a secure place, for a period of not less than 7 years after the end of the tax period to which they relate.

2.5 Clause 5 of the Bill amends the heading in section 36 of the Act by deleting “summons” and substituting “notice”.

2.6 Clause 6 of the Bill amends section 49 of the Act. Currently, section 49(1) does not include the failure to lodge any other document as required under a tax law. The proposed amendment to section 49(1) addresses this lacuna.

2.7 Clause 7 of the Bill amends section 70 of the Act to allow for the electronic lodgement of documents.

- 2.8 Clause 8 of the Bill amends section 72 of the Act to allow for electronic service.
- 2.9 Clause 9 of the Bill amends section 74 of the Act to clarify the meaning of due date.
- 2.10 Clause 10 of the Bill amends Schedule 1 to the Act to include an assessment of the environment and climate adaptation levy, including a self-assessment under section 8 of the Act.
- 2.11 Clause 11 of the Bill amends Part B of Schedule 3 to the Act to include a return required under sections 107 and 121 of the Income Tax Act 2015.

### **3.0 MINISTERIAL RESPONSIBILITY**

- 3.1 The Act comes under the responsibility of the Minister responsible for finance.

A. SAYED-KHAIYUM  
Attorney-General