

BILL NO. 9 OF 2019

A BILL

FOR AN ACT TO AMEND THE INCOME TAX ACT 2015

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.**—(1) This Act may be cited as the Income Tax (Budget Amendment) Act 2019.
- (2) This Act comes into force on 1 August 2019, except for—
 - (a) sections 2 and 3 which come into force on 1 January 2020; and
 - (b) section 4 which is deemed to have come into force on 1 January 2016.
- (3) In this Act, the Income Tax Act 2015 is referred to as the “Principal Act”.

Section 23 amended

2. Section 23(2) of the Principal Act is amended by deleting “limited to 50%” and substituting “100%”.

Section 24 amended

3. Section 24(3) of the Principal Act is amended by deleting “\$50,000” and substituting “\$15,000”.

*Section 25 amended***4.** Section 25 of the Principal Act is amended by—

- (a) in subsection (8) in the table after the eighth row, inserting the following new rows—

“

Tax Year 2018	50%
Tax Year 2019	50%
Tax Year 2020	50%

”; and

- (b) in subsection (14), deleting “50%” and substituting “150%”.

*Section 30 amended***5.** Section 30 of the Principal Act is amended by deleting subsection (3) and inserting the following new subsections—

“(3) If a net loss is not wholly deducted in a tax year under subsection (2), the undeducted amount is carried forward to the next following tax year and applied as specified in subsection (2) in that year, and so on until the loss is fully deducted, but no net loss can be carried forward—

- (a) for more than 4 tax years after the tax year in which the loss was incurred if the loss was incurred on or before 31 December 2018; and
- (b) for more than 8 tax years after the tax year in which the loss was incurred if the loss was incurred on or after 1 January 2019.

(3A) Notwithstanding section 36(4), for the purposes of this section, if a company has a substituted tax year or transitional tax year, for the tax year which includes 1 January 2019 (“2019 tax year”)—

- (a) for the period of the 2019 tax year ending on 31 December 2018 (“prior period”) if the total deductions allowed to the company for the prior period, other than the deduction allowed under this section, exceeds the company’s gross income for that prior period, the company has a net loss for the prior period equal to the amount of the excess (“prior period loss”) and provided that the company has a net loss for the 2019 tax year, the prior period loss may be carried forward for up to 4 tax years after the tax year in which the loss was incurred; and
- (b) for the period of the 2019 tax year commencing on 1 January 2019 (“subsequent period”) if the total deductions allowed to the company for the subsequent period, other than the deduction allowed under this section, exceeds the company’s gross income for that subsequent period, the company has a net loss for the subsequent period equal to the amount of the excess (“subsequent period loss”) and provided that the company has a net loss for the 2019 tax year, the subsequent period loss may be carried forward for up to 8 tax years after the tax year in which the loss was incurred.”.

Section 67 amended

6. Section 67(1)(d) of the Principal Act is amended after “income” by inserting “, excluding the disposal of shares”.

Section 121 amended

7. The Principal Act is amended by deleting section 121 and substituting the following—

“Monthly withholding tax summary

121. A person withholding tax under this Subdivision except for employment income withholding final tax must file with the CEO a monthly withholding tax summary as prescribed.”.

Consequential amendment

8. Schedule 3 to the Tax Administration Act 2009 is amended in Part A in paragraph 1(c) by deleting “an annual” and substituting “a monthly”.

June 2019

INCOME TAX (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 Income Tax (Budget Amendment) Bill 2019 (**'Bill'**) seeks to amend the Income Tax Act 2015 (**'Act'**) to address certain policy changes introduced in the 2019-2020 Budget.

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, except for clauses 2 and 3 which will come into force on 1 January 2020 and clause 4 which will be deemed to have come into force on 1 January 2016.
- 2.2 Clause 2 of the Bill amends section 23(2) of the Act by deleting "limited to 50%" and substituting it with "100%". Currently, the total amount allowed as a deduction for a tax year for an employer statutory contribution to the Fiji National Provident Fund and an approved fund in respect of an employee is 50% of the employer statutory contribution paid in respect of the employee for the tax year. The proposed amendment to section 23(2) of the Act increases the total amount allowed as a deduction to 100% of the employer statutory contribution paid in respect of the employee for the tax year.
- 2.3 Clause 3 of the Bill amends section 24(3) of the Act. The proposed amendment to section 24(3) of the Act deletes "\$50,000" and substitutes it with "\$15,000".
- 2.4 Clause 4 of the Bill amends section 25(8) and (14) of the Act. The proposed amendment to section 25(8) continues the export income deduction for the 2018, 2019 and 2020 tax years. The proposed amendment to section 25(14) deletes "50%" and substitutes it with "150%".

- 2.5 Clause 5 of the Bill amends section 30 of the Act to increase the period a person may carry forward a loss from 4 tax years to 8 tax years for a net loss incurred from 1 January 2019.
- 2.6 Clause 6 of the Bill amends section 67(1)(d) of the Act to exclude the disposal of shares in relation to the exempt capital gain.
- 2.7 Clause 7 of the Bill replaces the provision in section 121 of the Act. The proposed amendment to section 121 requires a person withholding tax except for employment income withholding final tax to file a monthly withholding tax summary instead of an annual withholding tax summary.
- 2.8 Clause 8 of the Bill amends Schedule 3 to the Tax Administration Act 2009 to change annual withholding tax summary to monthly withholding tax summary for consistency with the proposed amendment under clause 7 of the Bill.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General