

BILL NO. 14 OF 2020

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 2020.

(2) This Act comes into force on 1 August 2020.

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

Section 46 amended

2. Section 46 of the Principal Act is amended by deleting subsections (2) to (4) and inserting the following new subsection—

“(2) Subject to subsection (5), a person to whom this section applies is liable to a penalty equal to the amount computed in accordance with the following formula—

(a) in the case of income tax—

$$\text{penalty} = A \times r \times t$$

where—

A is the tax shortfall

r is the rate of penalty at 15%

t is the number of years after the year of assessment for the tax return; and

(b) in any other case—

$$\text{penalty} = A \times r \times t/12$$

where—

A is the tax shortfall

r is the rate of penalty at 15%

t is the number of months after the period of assessment for the tax return.”.

Section 46A amended

3. Section 46A of the Principal Act is amended by—

(a) deleting subsection (1) and substituting the following—

“(1) This section applies to a person who makes a false or misleading statement as specified in section 46(1)(a) which—

(a) does not result in a tax shortfall; but

(b) results in a tax benefit arising from overstatement.”; and

(b) deleting subsection (2) and substituting the following—

“(2) Subject to subsection (3), a person to whom this section applies is liable to a penalty equal to the amount computed in accordance with the following formula—

(a) in the case of income tax—

$$\text{penalty} = A \times r \times t$$

where—

A is the tax benefit arising from overstatement

r is the rate of penalty at 15%

t is the number of years after the year of assessment for the tax return; and

(b) in any other case—

$$\text{penalty} = A \times r \times t/12$$

where—

- A is the tax benefit arising from overstatement
- r is the rate of penalty at 15%
- t is the number of months after the period of assessment for the tax return.”.

Section 46B deleted

4. The Principal Act is amended by deleting section 46B.

Section 48 amended

5. Section 48(7) of the Principal Act is amended by deleting “other than that imposed under section 46”.

Section 116A amended

6. The Principal Act is amended by deleting section 116A and substituting the following—

“Offences by a tax agent

116A. A tax agent who, in his or her capacity as tax agent for a taxpayer, knowingly or recklessly—

- (a) prepares or causes to be prepared any document required to be produced for the purposes of complying with any tax law which is false or misleading in any material particular;
- (b) makes any entry in any document required to be produced for the purposes of complying with any tax law which is false or misleading in any material particular;
- (c) makes in any document produced to a tax officer for the purposes of complying with a tax law any statement which is false or misleading in any material particular or produces or delivers to a tax officer any such document containing any such statement; or
- (d) omits from a statement made to a tax officer any matter or thing without which the statement is false or misleading in a material particular,

commits an offence and is liable to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 10 years or both.”.

July 2020

TAX ADMINISTRATION (BUDGET AMENDMENT) BILL 2020

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 2020 (**‘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 2020.

2.2 Clause 2 of the Bill amends section 46 of the Act to provide for a more consistent and fair application of the audit penalties. The existing audit penalties are being replaced with a standard penalty at 15% of the tax shortfall. The penalty rate is to be calculated in the same way as an interest rate.

2.3 Clause 3 of the Bill amends section 46A of the Act to provide for a more consistent and fair application of the audit penalties. The existing audit penalties are being replaced with a standard penalty at 15% of the tax benefit arising from overstatement. The penalty rate is to be calculated in the same way as an interest rate.

2.4 Clause 4 of the Bill deletes section 46B of the Act to remove the 300% audit penalty for VAT evasion.

2.5 Clause 5 of the Bill amends section 48(7) of the Act by deleting “other than that imposed under section 46” to allow the Chief Executive Officer to also remit, in whole or in part, any penalty payable by a person under section 46 of the Act.

2.6 Clause 6 of the Bill amends section 116A of the Act to provide for consistency with other penalty provisions in the Act.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General