

BILL NO. 38 OF 2020

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 (Amendment) (No. 3) Act 2020.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.
- (3) In this Act, the Income Tax Act 2015 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended in the definition of “permanent establishment” by deleting paragraph (f) and substituting the following—

- “(f) substantial equipment other than aircraft, aircraft engines and aircraft parts used for more than 6 months within a 12-month period, or installed by, for or under contract with the person;”.

Section 143 amended

3. Section 143 of the Principal Act is amended after subsection (9B) by inserting the following new subsection—

“(9C) Any exemption granted by the Minister before 1 August 2020 to a person seeking for the person’s business to be deemed not to be a permanent establishment under this Act continues to have effect in accordance with the terms and conditions of the exemption.”.

INCOME TAX (AMENDMENT) (NO. 3) BILL 2020

EXPLANATORY NOTE

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

1.0 BACKGROUND

- 1.1 The Income Tax (Amendment) (No. 3) Bill 2020 (**‘Bill’**) seeks to amend the Income Tax Act 2015 (**‘Act’**).
- 1.2 The Act provides for the laws relating to income tax.
- 1.3 The Income Tax (Budget Amendment) Act 2020 removed the Minister’s discretionary power to grant an exemption to a person’s business to be deemed not to be a permanent establishment.
- 1.4 The Bill seeks to amend the definition of “permanent establishment” under section 2 of the Act to clarify that lessors of foreign aircraft, aircraft engines and aircraft parts are not deemed to have a permanent establishment for tax purposes in Fiji by virtue of leasing aircraft, aircraft engines and aircraft parts to Fijian companies. The proposed amendment would give certainty to, and provide an incentive for, those who are in the business of leasing aircraft, aircraft engines and aircraft parts to Fijian companies.
- 1.5 The Bill also seeks to amend section 143 of the Act to allow any exemption granted by the Minister before 1 August 2020 to a person seeking for the person’s business to be deemed not to be a permanent establishment to continue to have effect in accordance with the terms and conditions of the exemption.

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 a date or dates appointed by the Minister.
- 2.2 Clause 2 of the Bill amends section 2 of the Act in the definition of “permanent establishment” to clarify that lessors of foreign aircraft, aircraft engines and aircraft parts are not deemed to have a permanent establishment in Fiji.

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2.3 Clause 3 of the Bill amends section 143 of the Act to allow any exemption granted by the Minister before 1 August 2020 to a person seeking for the person's business to be deemed not to be a permanent establishment to continue to have effect in accordance with the terms and conditions of the exemption.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General