

# BILL NO. 23 OF 2021

## 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 2021.
- (2) This Act comes into force on 1 August 2021.
- (3) In this Act, the Income Tax Act 2015 is referred to as the “Principal Act”.

*Section 17 amended*

2. Section 17(1B) of the Principal Act is amended by—

- (a) in paragraph (a), deleting “31 December 2020” and substituting “31 December 2021”; and
- (b) in paragraph (b), deleting “31 December 2021” and substituting “31 December 2022”.

*Section 25 amended*

3. Section 25(8) of the Principal Act is amended after the thirteenth row by inserting the following new rows—

Tax Year 2023	(a) in the case of the agriculture or fisheries industry – 90% (b) in any other industry – 60%
Tax Year 2024	(a) in the case of the agriculture or fisheries industry – 90% (b) in any other industry – 60%

*Section 28 amended*

4. Section 28 of the Principal Act is amended after subsection (5) by inserting the following new subsection—

“(6) Notwithstanding subsections (1) to (5), if a company has deposited an amount in an account with a financial institution in accordance with this section prior to 1 July 2021, the company may withdraw the amount to sustain a business activity of the company that is affected by the COVID-19 pandemic, provided that the amount withdrawn does not exceed the amount in the account as at 30 June 2021.”.

*Section 28A inserted*

5. The Principal Act is amended after section 28 by inserting the following new section—

*“Pandemic reserve*

28A.—(1) Subject to subsection (2), a deduction is allowed for an amount deposited by a company in a tax year in an account with a financial institution for the purpose of providing a reserve for sustaining a business activity of the company that is affected by a pandemic.

(2) The deduction allowed under subsection (1) for a tax year is 150% of the amount deposited by the company.

(3) No deduction is allowed under this Act for expenditure incurred by a company to sustain a business activity of the company that is affected by a pandemic to the extent that the expenditure is financed by an amount previously deposited to an account referred to in subsection (1) and for which a deduction has been allowed under that subsection in respect of the deposit.

(4) An amount for which a company has been allowed a deduction under subsection (1) that is withdrawn by the company from the account referred to in subsection (1) and that is not applied to sustain the business activity of the company that is affected by a pandemic is income included in the gross income of the company for the tax year in which the amount is withdrawn.”.

*Section 88 amended*

6. Section 88 of the Principal Act is amended by—

(a) in subsection (1)(a) after “individual”, inserting “or a resident partnership”;

- (b) after subsection (2C), inserting the following new subsection—
  - “(2D) For the purposes of subsection (1)(a), where the transferor is a resident partnership, the percentage of ownership in the partnership should be the same as their percentage of beneficial ownership of the issued shares in the transferee.”;
- (c) in subsection (3)—
  - (a) in paragraph (a), deleting “; or” and substituting “;”;
  - (b) in paragraph (b), deleting “.” and substituting “; or”; and
  - (c) after paragraph (b), inserting the following new paragraph—
    - “(c) all shareholders of the transferor company and the transferee company are common shareholders who have the same percentage of ownership in the issued shares of the transferor company and the transferee company, either directly or indirectly through an interposed person.”; and
- (d) in subsection (4), deleting “means” and substituting “and “interposed person” mean”.

July 2021

## **INCOME TAX (BUDGET AMENDMENT) BILL 2021**

### **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 2021 (**'Bill'**) seeks to amend the Income Tax Act 2015 (**'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 2021.

2.2 Clause 2 of the Bill amends section 17(1B) of the Act to provide for debts created on or before 31 December 2021 and forgiven between 1 April 2020 and 31 December 2022, to not be treated as business income and therefore not be subject to income tax.

2.3 Clause 3 of the Bill amends section 25 of the Act to provide for export income deduction for the 2023 and 2024 tax years. For the agriculture or fisheries industry, the rate of export income deduction is 90%. For any other industry, the rate of export income deduction is 60%.

2.4 Clause 4 of the Bill amends section 28 of the Act to allow companies that have deposited an amount in a natural disaster reserve account with a financial institution prior to 1 July 2021 to withdraw the amount to sustain a business activity of the company that is affected by the COVID-19 pandemic, provided that the amount withdrawn does not exceed the amount in the account as at 30 June 2021.

2.5 Clause 5 of the Bill inserts a new section 28A to provide for a reserve fund for pandemics. The deduction allowed for a tax year would be 150% of the amount deposited by a company.

2.6 Clause 6 of the Bill amends section 88(4) to extend the scope to cover resident partnerships. The meaning of group companies has been extended to include the transfer of assets between companies that have common shareholders.

### **3.0 MINISTERIAL RESPONSIBILITY**

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

A. SAYED-KHAIYUM  
Attorney-General