

# BILL NO. 30 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 (Amendment) (No. 2) Act 2021.

(2) This Act comes into force on the date of publication in the Gazette except for section 2 which is deemed to have come into force on 1 August 2021.

(3) In this Act, the Income Tax Act 2015 is referred to as the “Principal Act”.

*Section 25 amended*

**2.** Section 25(8) of the Principal Act is amended by deleting “or fisheries” wherever it appears and substituting “, fisheries or forestry”.

*Section 67 amended*

**3.** Section 67 of the Principal Act is amended by—

(a) in subsection (1)—

(i) in paragraph (h), deleting “.” and substituting “;”;

(ii) after paragraph (h), inserting the following new paragraph—

“(i) a capital gain made by a person on the disposal of shares if the shares were held by the person before 1 May 2011.”;

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

“(5) Notwithstanding this Act and the Tax Administration Act 2009, if, before the commencement of section 3 of the Income Tax (Amendment) (No. 2) Act 2021, a person is required to pay Capital Gains Tax on the disposal of shares held by the person before 1 May 2011 and the person has not paid the Capital Gains Tax, the person is no longer required to pay the Capital Gains Tax and any action or suit for the recovery of the unpaid Capital Gains Tax immediately ceases.

(6) For the avoidance of doubt, if a person paid Capital Gains Tax before the commencement of section 3 of the Income Tax (Amendment) (No. 2) Act 2021 on the disposal of shares held by the person before 1 May 2011, the payment of the Capital Gains Tax is not refundable to the person.”.

August 2021

## **INCOME TAX (AMENDMENT) (NO. 2) 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 Under the Income Tax Act 2015 (**‘Act’**), a person exporting goods or services is allowed a deduction, representing a percentage of the export income (**‘export income deduction’**).
- 1.2 In the 2021-2022 Budget, the 60% export income deduction was extended for the 2023 and 2024 tax years. For primary industries, export income deduction was increased from 60% to 90% to incentivise those in these industries to grow, increase their export base and bring more cash into the economy.
- 1.3 Although amendments were made to the Act for the 90% export income deduction to apply to the agriculture and fisheries industries, the forestry industry was inadvertently left out.
- 1.4 In order to give effect to the 2021-2022 Budget, the Income Tax (Amendment) (No. 2) Bill 2021 (**‘Bill’**) seeks to amend section 25(8) of the Act to extend the 90% export income deduction to the forestry industry for the same additional two tax years.
- 1.5 The Bill also seeks to amend section 67 of the Act to exempt a capital gain made by a person on the disposal of shares if the shares were held by the person before the introduction of Capital Gains Tax (**‘CGT’**) in Fiji. Essentially, this would remove CGT applicable on shares held by a person before 1 May 2011.

#### **2.0 CLAUSES**

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation comes into force on the date of publication in the Gazette except for clause 2 which is deemed to have come into force on 1 August 2021.

- 2.2 Clause 2 of the Bill amends section 25(8) of the Act by deleting “or fisheries” wherever it appears and substituting “, fisheries or forestry”. This would extend the 90% export income deduction to the forestry industry.
- 2.3 Clause 3 of the Bill amends section 67 of the Act to exempt a capital gain made by a person on the disposal of shares if the shares were held by the person before 1 May 2011.
- 2.4 If, before the commencement of clause 3, a person is required to pay CGT on the disposal of shares held by the person before 1 May 2011 and the person has not paid the CGT, the person is no longer required to pay the CGT and any action or suit for the recovery of the unpaid CGT immediately ceases. For the avoidance of doubt, if a person has paid CGT before the commencement of clause 3 on the disposal of shares held by the person before 1 May 2011, the payment of the CGT is not refundable to the person.

### **3.0 MINISTERIAL RESPONSIBILITY**

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

A. SAYED-KHAIYUM  
Attorney-General