

BILL NO. 29 OF 2022

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) (No. 2) Act 2022.

(2) This Act comes into force on 1 August 2022 except for section 3 which comes into force on 1 January 2023.

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

Part 2 amended

2. Part 2 of the Principal Act is amended after section 49 by inserting the following new Division—

“Division 8A—Repurchase Transactions

Application of Division 8A

49A. This Division applies notwithstanding any other section in this Act.

Interpretation

49B. In this Division, unless the context otherwise requires—

“Central Bank” means the Reserve Bank of Fiji;

“financial institution” has the same meaning under section 2 but does not include an insurance company;

“repo transaction” means a repurchase agreement or a sale and purchase agreement carried out between a financial institution and the Central Bank under the Master Repo Agreement authorised by the Central Bank; and

“Master Repurchase Agreement” means a repurchase agreement between the Central Bank and financial institutions.

Disposal of securities under a repo transaction

49C.—(1) Subject to section 49D, any gain made on the disposal of securities under a repo transaction is exempt from Capital Gains Tax.

(2) Any subsequent reacquisition of the securities in subsection (1) under the repo transaction will not change the cost of the security for the purpose of calculating subsequent gains or losses.

Default under a repo transaction

49D.—(1) If a financial institution defaults under the Master Repo Agreement, the exemption granted on the disposal of securities under section 49C ceases to apply and any tax payable at the date of transfer of the security becomes immediately payable.

(2) Subsection (1) does not apply where the security is provided in the form of shares and bonds listed on the South Pacific Stock Exchange.”.

Section 67 amended

3. Section 67(1) of the Principal Act is by deleting paragraph (i) and substituting the following —

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

Section 126 amended

4. Section 126(1) of the Principal Act is amended after “section 67(1)(c)” by inserting “and Division 8A of Part 2”.

Section 138 deleted

5. The Principal Act is amended by deleting section 138.

Transitional

6. Notwithstanding section 5, any concessionary rate of tax applicable to a company under section 138 of the Act prior to the commencement of the Income Tax (Budget Amendment) (No. 2) Act 2022 continues to apply until the end of the company’s tax year 2022.

July 2022

INCOME TAX (BUDGET AMENDMENT) (NO. 2) BILL 2022

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 (Amendment) (No. 2) Bill 2022 (**‘Bill’**) seeks to amend the Income Tax Act 2015 (**‘Act’**) to address the budgetary changes in the 2022 - 2023 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 2022 except for clause 3 which will come into force on 1 January 2023.
- 2.2 Clause 2 of the Bill amends Part 2 of the Act to include a new Division on repurchase transactions. Clause 2 of the Bill also provides that any gain made on the disposal of securities under a repurchase transaction is exempt from Capital Gains Tax.
- 2.3 Clause 3 of the Bill amends section 67 of the Act by exempting resident individuals and Fijian citizens from Capital Gains Tax, on the disposal of shares held before 1 May 2011. The non-resident taxpayers will no longer qualify for the exemption if the shares which were held before 1 May 2011 are disposed on or after 1 January 2023.
- 2.4 Clause 4 of the Bill amends section 126 of the Act to exclude a person who disposes an asset under Division 8A of Part 2 (Repurchase Transactions), from the requirement to file a Capital Gains Tax Return.
- 2.5 Clause 5 of the Bill deletes section 138 of the Act to remove the concessional rate of 17% provided for the relocation of global or regional headquarters to Fiji.
- 2.6 Clause 6 of the Bill provides a transitional provision to allow companies to pay the concessional rate of tax until the end of the company’s tax year 2022.

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3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General