

BILL NO. 4 OF 2023

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 2023.

(2) This Act comes into force on 1 August 2023.

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

Section 2 amended

2. Section 2(1) of the Principal Act is amended after “requires—” by inserting the following new definition—

““alternative dispute resolution” means a set of mechanisms that may be used to resolve or settle a dispute without litigation, and includes arbitration or mediation;”.

Section 16A inserted

3. The Principal Act is amended after section 16 by inserting the following new section—

“Alternative dispute resolution

16A. A person dissatisfied with an objection decision may request for the matter to be resolved through alternative dispute resolution.”.

Section 17 amended

4. Section 17(1) of the Principal Act is amended after “objection decision” by inserting “or where no resolution or settlement is reached under section 16A,”.

Section 31 amended

5. Section 31 of the Principal Act is amended by deleting subsection (1) and substituting the following—

“(1) Where—

- (a) a person is subject to a tax liability and the CEO believes on reasonable grounds that it is desirable to do so for the purposes of ensuring that the person does not depart Fiji without—
 - (i) wholly discharging the tax liability; or
 - (ii) making an arrangement satisfactory to the CEO for the tax liability to be wholly discharged; or
- (b) a person whose tax liability has been written off as bad debts and the CEO has reasonable grounds to reinstate the bad debts,

the CEO, may by order in accordance with the prescribed form, prohibit the taxpayer from departing Fiji.”.

Section 31A inserted

6. The Principal Act is amended after section 31 by inserting the following new section—

“Arrival alert

31A.—(1) Where—

- (a) a person is subject to a tax liability and the CEO believes on reasonable grounds that it is desirable to do so for the purposes of ensuring that the person does not depart Fiji without—
 - (i) wholly discharging the tax liability; or
 - (ii) making an arrangement satisfactory to the CEO for the tax liability to be wholly discharged; or
- (b) a person whose tax liability has been written off as bad debts and the CEO has reasonable grounds to reinstate the bad debts,

the CEO may place the person on arrival alert where the person is not in Fiji.

(2) The CEO must state the following on the arrival alert—

- (a) the name and address of the taxpayer; and
- (b) the amount of tax that is or will become payable.

(3) The CEO must revoke the arrival alert if—

- (a) the taxpayer makes payment in full of the tax payable or that will become payable by the taxpayer; or
- (b) the taxpayer makes an arrangement satisfactory to the CEO for payment of the tax that is or will become payable by the taxpayer.”.

Section 113 amended

7. Section 113 of the Principal Act is amended by—

(a) in subsection (2), deleting “prescribed fee” and substituting “approved fee”; and

(b) deleting subsections (3) and (4) and inserting the following—

“(3) A new applicant under this section who satisfies the Board that he or she—

- (a) is a fit and proper person to prepare tax returns and transact business under tax laws on behalf of taxpayers; and
- (b) is a chartered accountant (CA) of the Fiji Institute of Chartered Accountants; or
- (c) has an equivalent level of membership of a recognised accounting body or association,

is entitled to be registered as a tax agent.

(4) The Board may set minimum requirements or standards for the purpose of determining whether an applicant is a fit and proper person for the purposes of subsection (3).

(4A) The Board must, verify an application made under subsection (1), including the applicant’s references, qualifications and any other verification as the Board deems necessary.”.

June 2023

TAX ADMINISTRATION (BUDGET AMENDMENT) BILL 2023

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 Act 2009 (**‘Act’**) came into force on 1 January 2010 to revise and harmonise the rules relating to the administration of the tax laws of Fiji and for the efficient collection of taxes.
- 1.2 The Tax Administration (Budget Amendment) Bill 2023 (**‘Bill’**) seeks to amend the Act to provide for the 2023-2024 budgetary policy changes.

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 2023.
- 2.2 Clause 2 of the Bill amends section 2 of the Act by inserting the definition for “alternative dispute resolution”.
- 2.3 Clause 3 of the Bill amends the Act by inserting section 16A to allow a person dissatisfied with an objection decision to request for their matter to be resolved through alternative dispute resolution.
- 2.4 Clause 4 of the Bill amends section 17(1) of the Act to allow a person to apply to the Tax Tribunal for a review of an objection decision where attempts to resolve the matter through alternative dispute resolution have been unsuccessful.
- 2.5 Clause 5 of the Bill amends section 31 of the Act to provide clarity on the grounds that allow the Chief Executive Officer (**‘CEO’**) to order that a person who has not fully discharged their tax liability, be issued a departure prohibition order.
- 2.6 Clause 6 of the Bill inserts section 31A to allow the CEO to place a person who has not fully discharged their tax liability, on arrival alert.

- 2.7 Clause 7 of the Bill amends section 113 of the Act to allow the Tax Agents' Board (**'Board'**) to set the necessary fee for an application made as well as the minimum requirements or standards for the Board to refer to when assessing an application for a person to be registered as a tax agent. Clause 7 of the Bill also provides that the Board must verify an application and this includes verification of references, qualification and any other verification that the Board thinks fit in order to assess the application.

3.0 MINISTERIAL RESPONSIBILITY

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

S. TURAGA
Attorney-General