

BILL NO. 5 OF 2023

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 2023.
- (2) This Act comes into force on 1 August 2023 except—
 - (a) section 7 which is deemed to have come into force on 1 July 2023; and
 - (b) sections 2, 3, 5, 6 and 8 to 11 which come into force on 1 January 2024.
- (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 by—
 - (a) in the definition of “generally accepted accounting principles”, deleting “Fiji Institute of Accountants Act 1971” and substituting “Fiji Institute of Chartered Accountants Act 2021”; and
 - (b) deleting the definition of “Social Responsibility Tax”.

*Section 8 amended***3.** Section 8 of the Principal Act is amended by—

- (a) in the heading, deleting “ and Social Responsibility Tax”;
- (b) deleting subsections (2) and (3) and inserting the following—
 - “(2) The Income Tax imposed under subsection (1) for a tax year is computed by applying the rate or rates of Income Tax applicable to the person prescribed by Regulations made under this Act to the chargeable income of the person for the year, with any tax credits allowed to the person for the year, subtracted from the resulting amount”; and
- (c) deleting subsections (7) and (8).

*Section 10 amended***4.** Section 10 of the Principal Act is amended by deleting subsection (8).*Section 22 amended***5.** Section 22(1) of the Principal Act is amended by deleting paragraph (h) and substituting the following—

- “(h) Income Tax or Capital Gains Tax payable in Fiji or elsewhere, including any penalty, additional tax or interest payable in respect of Income Tax, Capital Gains Tax or fringe benefits tax due;”.

*Section 60 amended***6.** Section 60(8) of the Principal Act is amended in the definition of “Fiji Income Tax” by deleting “and Social Responsibility Tax” .*Section 67 amended***7.** Section 67 of the Principal Act is amended by—

- (a) in subsection (1), deleting paragraph (i);
- (b) in subsection (4)—
 - (i) deleting paragraph (a)(i) and substituting the following—
 - “first residential property” means the first residential property that a resident individual or Fiji citizen has acquired, and who has sole ownership or co-owns the same with his or her spouse, parents, siblings, children, grand parents or grandchildren;”;
 - (ii) in paragraph (b), deleting “.”and substituting “;”;
 - (iii) after paragraph (b), inserting the following new paragraph—
 - “(c) paragraph (a)(i), “spouse” includes a spouse in a *de facto* relationship as defined in the Family Law Act 2003.”; and

(c) deleting subsection (5) and substituting the following—

“(5) For the avoidance of doubt, any person who was liable for Capital Gains Tax on the disposal of shares before the commencement of section 3 of the Income Tax (Amendment) (No. 2) Act 2021 and had not paid Capital Gains Tax is liable to pay it as if the former subsection (5) of section 67 had not been enacted.”.

Part 9 amended

8. Part 9 of the Principal Act is amended in Division 2—

(a) in the heading, deleting “, SOCIAL RESPONSIBILTY TAX”; and

(b) in Subdivision 2 in the heading, deleting “and Social Responsibility Tax”.

Section 108 amended

9. Section 108(1) of the Principal Act is amended by deleting “and Social Responsibility Tax”.

Section 110 amended

10. Section 110 of the Principal Act is amended by deleting subsection (14).

Section 111 amended

11. Section 111 of the Principal Act is amended by deleting subsection (3).

Consequential amendment

12. The Environment and Climate Adaptation Levy Act 2015 is amended by—

(a) in section 10, deleting “and shall form part of the Social Responsibility Tax under the Income Tax Act 2015”; and

(b) deleting section 11.

June 2023

INCOME TAX (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 Income Tax Act 2015 (**‘Act’**) commenced on 1 January 2016 and is the primary legislation dealing with income tax.
- 1.2 The Income Tax (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 except section 7 which will be deemed to have come into force on 1 July 2023 and sections 2, 3, 5, 6 and 8 to 11 which will come into force on 1 January 2024.
- 2.2 Clause 2 of the Bill amends section 2 of the Act to update the reference to the Fiji Institute of Chartered Accountants Act 2021 contained in the definition of “general accepted accounting principles. Clause 2 of the Bill also amends section 2 of the Act by deleting the definition of “Social Responsibility Tax”.
- 2.3 Clause 3 of the Bill amends section 8 of the Act by deleting the references to “Social Responsibility Tax” in the computation of Income Tax.
- 2.4 Clause 4 of the Bill amends section 10 of the Act to remove the computation of Non-resident Withholding Tax for any recharge of a fee or rental by a non-resident associate for professional or independent services or lease of equipment by an non-resident associate of a recipient
- 2.5 Clause 5 of the Bill amends section 22(1) of the Act by removing reference to “Social Responsibility Tax” in relation to taxes for which no deductions are allowed.

- 2.6 Clause 6 of the Bill amends section 60(8) of the Act by removing reference to “Social Responsibility Tax” from the definition of “Fiji Income Tax”.
- 2.7 Clause 7 of the Bill amends section 67 of the Act by removing capital gain made by a resident or Fiji citizen on the disposal of shares, being shares that were held by that person before 1 May 2011, as an exempt capital gain. Clause 7 of the Bill also expands the scope of ownership of first residential property, the disposal of which would be exempt from capital gains. Clause 7 of the Bill further amends section 67 of the Act by including provision for *de facto* spouses as defined in the Family Law Act 2003.
- 2.8 Additionally, clause 7 of the Bill deletes amendments made in 2021 through the Income Tax (Amendment) (No. 2) Act 2021 which exempted those liable to pay Capital Gains Tax on the disposal of shares held before 1 May 2011.
- 2.9 Clause 8 of the Bill amends Division 2 of Part 9 of the Act by removing references to “Social Responsibility Tax”.
- 2.10 Clause 9 of the Bill amends section 108(1) of the Act by removing reference to “Social Responsibility Tax”.
- 2.11 Clause 10 of the Bill amends section 110 of the Act by removing Social Responsibility Tax in the meaning of Income Tax.
- 2.12 Clause 11 of the Bill amends section 111 of the Act by removing Social Responsibility Tax in the meaning of tax applicable to employment income.
- 2.13 Clause 12 of the Bill consequentially amends the Environment and Climate Adaptation Levy Act 2015 to remove all references to Social Responsibility Tax.

3.0 MINISTERIAL RESPONSIBILITY

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

S. TURAGA
Attorney-General