

**REPUBLIC OF KIRIBATI**  
**(No.2 of 2009)**

I assent,

Beretitenti  
Assented: 8<sup>th</sup> May 2009

**AN ACT TO AMEND THE *INCOME TAX ACT* 1990**

Commencement:  
2009

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

**1. Short title**

This Act may be cited as the Income Tax (Amendment) Act 2009.

**2. Commencement**

This Act shall be deemed to have entered into force on 1 January 2009.

**3. Meaning of 'principal Act'**

In this Act 'principal Act' means the Income Tax Act 1990.

**4. Amendment of section 3(1)**

Section 3(1) of the principal Act is amended—

(a) by inserting after the definition of 'dividend' the following definitions—

''employee' means an individual exercising an employment;

'employer' means a person who employs an individual in employment;

'employment' includes—

(a) the position of a person in the employ of another person;

(b) a directorship of a company;

(c) an office or position entitling the holder to a fixed or ascertainable stipend or remuneration; or

(d) any other office the holder of which is elected by popular vote or appointed in a representative capacity,

but excludes employment of an individual as a domestic servant where the remuneration is less than \$120 per month;" ;

(b) by inserting after the definition of 'incapacitated person' the following definition—

"'income tax' means any tax imposed under this Act;" ; and

(c) in the definition of 'personal deduction', by repealing "Part VII or".

**5. Amendment of section 16(1)**

Section 16(1) of the principal Act is amended by repealing paragraph (d) and substituting the following paragraph—

"(d) any charge or annuity; and".

**6. Amendment of section 18**

Section 18 of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

"(1) The income from any employment exercised or services rendered shall be deemed to include—

(a) any wages, salary, leave pay, payment in lieu of leave, fee, commission, bonus or gratuity; and

(b) any amount as consideration for the agreement by a person to—

(i) enter into employment; or

(ii) accept any conditions of employment or any changes to the person's conditions of employment.".

**7. Amendment of section 25**

Section 25 of the principal Act is amended by inserting the following subsection after subsection (3)—

"(4) No deduction shall be allowed for an outgoing, expense or loss to the extent incurred by a taxpayer in the production of employment income.".

**8. Amendment of Part VII heading**

The heading for Part VII of the principal Act is amended by repealing "and Personal Deductions".

**9. Amendment of section 46**

Section 46 of the principal Act is amended—

- (a) in subsection (2), by repealing "this Part or" where it twice appears; and
- (b) by repealing subsections (3), (4) and (5).

**10. Repeal of sections 47, 48, 49, 50, 51, 52, 53 and 54**

Sections 47, 48, 49, 50, 51, 52, 53 and 54 of the principal Act are repealed.

**11. Amendment of section 74(1)**

Section 74(1) of the principal Act is amended by repealing "Kiribati Co-operative Copra Society Ltd" and substituting "Kiribati Copra Co-operative Society Ltd".

**12. Amendment of section 77**

Section 77 of the principal Act is amended by repealing paragraph (b) and substituting the following paragraph—

- "(b) the official emoluments of any officer or employee (other than a citizen of Kiribati) of such organisation declared by the Minister to be exempt from income tax, but only if the funds to pay the emoluments have been remitted from outside Kiribati."

**13. New sections 79A and 79B**

After section 79 of the principal Act the following sections are inserted—

**"79A. Interest income**

The first \$250 of interest income derived by an individual (other than an unmarried minor) on savings in a bank in Kiribati shall be exempt from income tax.

**79B. Alimony**

Alimony shall be exempt from income tax."

**14. Repeal and replacement of section 87**

Section 87 of the principal Act is repealed and the following section substituted—

**"87. Foreign employment income of residents**

Income from any employment exercised in any country other than Kiribati by a resident shall be exempt from income tax other than—

- (a) income derived by a resident for services rendered outside Kiribati to the extent that the resident is not taxed on the income by another country; or

- (b) income derived by a diplomatic, consular or similar official representing the Republic who is a citizen of Kiribati."

**15. Amendment of section 98**

Section 98 of the principal Act is amended by inserting the following subsection after subsection (11)–

- "(12) The Board may, by notice in writing, exempt a class of persons specified in the notice from the requirement to comply with subsection (1)."

**16. Amendment of section 113(6)**

Section 113(6) of the principal Act is amended by inserting "instalment" between "Any" and "of tax".

**17. Amendment of section 115**

Section 115 of the principal Act is amended–

- (a) by repealing subsection (1) and substituting the following subsection–

- "(1) For the purposes of this section 'payment' means any payment of income referred to in section 18 in respect of employment.";

- (b) by repealing subsection (5); and

- (c) by inserting the following subsections after subsection (17)–

- "(18) Subject to subsection (19), if tax has been withheld by an employer from a payment to an employee in accordance with this section, the tax withheld shall be a final tax on the income.

- (19) Subsection (18) does not apply to an employee for a tax year if–

- (a) at any time during the tax year, the employee has two or more employers concurrently; or

- (b) for the whole of the tax year the employee has incurred a personal deduction under section 83(3)(b), (c) or (d); or

- (c) during the tax year, in addition to employment income, the employee derives income referred to in section 16(1)(a), (c), (d) or (e) that is included in the calculation of the chargeable income of the employee for the year."

**18. Repeal of Schedule 9**

Schedule 9 to the principal Act is repealed.

## INCOME TAX (AMENDMENT) ACT 2009

### EXPLANATORY MEMORANDUM

This Act amends the Income Tax Act 1990 to enable the Government to introduce the new 'PAYE Final' tax regime. When implemented, PAYE Final will make the administration of the income tax system much simpler, relieving employers, employees and the staff of the Taxation Division of the Ministry of Finance and Economic Development of much of the administrative burden of the present system.

Under PAYE Final, most personal deductions will be incorporated into a higher tax-free threshold, with the result that very few employees will be required to submit annual returns, and there will be significantly fewer refunds processed. Tax inspectors will be freed from the burden of assessing many thousands of returns to pursue a much more rigorous inspection and enforcement programme.

The opportunity is also taken to incorporate some additional minor amendments into the Income Tax Act, to clarify a point, or to correct an error.

Section 2 of the Act provides that the changes will be retrospective, entering into force on 1 January 2009.

Section 4 amends the interpretation section of the Act, to move several definitions from section 115 to where most other definitions can be found. A new definition of 'income tax' is inserted, and the definition of 'personal deduction' is amended to reflect the removal of the deduction provisions from Part VII of the Act.

Section 5 amends section 16(1) to remove a reference to alimony, which was previously included in calculating a taxpayer's chargeable income. Under the new section 79B (inserted by section 13), alimony will be considered exempt from income tax.

Section 6 supplements the concept of employment income to include sums received as, for example, a signing bonus. Also included are sums received as consideration for accepting any conditions of employment or changes thereto.

Section 7 inserts a new subsection (4) in section 25, to provide that an expense incurred in generating employment income will no longer be allowed as a deduction.

Sections 8, 9 and 10 remove all of the provisions from Part VII of the Income Tax Act dealing with personal deductions. In future, the only personal deductions permitted will be for Provident Fund contributions and insurance premiums, under section 83(3) of the Act.

Section 11 corrects an error in section 74(1), where two of the words in the name of the Kiribati Copra Co-operative Society Ltd were transposed.

Section 12 amends section 77 to make it clear that the income of employees of international organisations who are citizens of Kiribati will not normally be exempt from tax.

Section 13 adds new sections 79A and 79B. The new section 79A implements the change to the way interest earned on savings will be regarded. The old section 52 (now repealed by section 10) allowed for interest to be deducted. In future, the first \$250 of interest will simply be exempt from income tax. As mentioned above, alimony will also be exempt from income tax, under the new section 79B.

Section 14 replaces section 87, to clarify the liability as to income tax for residents earning foreign employment income.

Section 15 adds a new subsection to section 98 to empower the Internal Revenue Board to grant exemptions from the requirement to submit annual tax returns. It is expected that, under PAYE Final, most employees will no longer need to submit annual returns.

Section 16 corrects an error that was introduced into section 113 (dealing with provisional tax) by an amendment in 1993.

Section 17 amends section 115, which deals with withholding tax for employees. Subsection (1) is amended, to reflect the move of several definitions to section 3, while subsection (5) is repealed, as it is no longer required with the removal of dependents' deductions. A new subsection (18) provides for the tax withheld to be the final income tax, save in certain circumstances set out in subsection (19).

Section 18 repeals Schedule 9 to the Income Tax Act, which specified the amounts allowed for personal deductions.

Upon passage of this Act, Schedule 1 to the Income Tax Act (which sets out the individual tax rate scale) will be amended to introduce the new rates of income tax, and the scale of income at which the new rates will be applied. Under section 134(c) of the Act, the Schedules may be amended by the Beretitenti, acting in accordance with the advice of the Cabinet.

**Titabu Tabane**  
Attorney General  
1 April 2009