



PARLIAMENT OF THE COOK ISLANDS

INCOME TAX AMENDMENT BILL 2019

EXPLANATORY NOTE

The Income Tax Amendment Bill (the **Bill**) amends the Income Tax Act 1997 (the **Income Tax Act**).

This note does not form part of the Bill but is intended to indicate its effect, and to identify the more important aspects of the Bill.

- Clause 1** provides that the title of the Bill, when enacted, is the Income Tax Amendment Act 2019.
- Clause 2** provides that the Bill will come into force on the day after the date it receives the assent of the Queen's Representative.
- Clause 3** provides that the Bill amends the Income Tax Act 1997 (the **principal Act**).
- Clause 4** amends section 2 of the Income Tax Act by replacing definitions of the following terms:

(a) "Cook Islands Company":

This definition expands the current definition of Cook Islands company to include a company incorporated under the International Companies Act 1981-82. The amendment is required because, in future, companies incorporated under the International Companies Act 1981-82 will be subject to the provisions of the Income Tax Act 1997:

(b) "company":

This definition expands the current definition of company to include a company incorporated under the International Companies Act 1981-82. The amendment is required because companies incorporated under the International Companies Act 1981-82 will, in future, be subject to the provisions of the Income Tax Act 1997:

(c) “entity”:

This definition expands the current definition of entity to include a Cook Islands company (as defined in the amended definition provided in this Bill). The amendment is required because companies incorporated under the International Companies Act 1981-82 will, in future, be subject to the provisions of the Income Tax Act 1997:

(d) “person”:

The definition of “person” expands the current definition of person to include a Cook Islands company as defined in section 2 of the principal Act. The amendment is required because companies incorporated under the International Companies Act 1981-82 will, in future, be subject to the provisions of the Income Tax Act:

(e) “qualifying jurisdiction”:

The definition of “qualifying jurisdiction” recognizes jurisdictions that are compliant with the EU Good Tax Governance initiative and allows for the listing of non- co-operative jurisdictions listed by the European Union (or a similar successor body) under regulations under the Income Tax Act 1997.

Clause 5

repeals section 42(1)(j) of the principal Act. The purpose of the amendment is to remove the exemptions from taxation of advertising, beautifying, or developing any island, village, or other district so as to attract trade, tourists, visitors, or population, or to create, increase, expand, or develop amenities for the general public.

Clause 6

amends section 85 by omitting the reference to “country and territory” and substituting “qualifying jurisdiction”. The purpose of the amendment is to align the sections with the new definition of qualifying jurisdiction in recognising jurisdictions compliant with the EU Good Tax Governance initiative by allowing a tax credit in respect of income tax paid by a person who is resident in the Cook Islands in those compliant jurisdictions, and by not allowing a tax credit for income tax paid in those jurisdictions listed by the European Union (or a similar successor body) as a non-cooperative jurisdiction.

Hon. Mark Brown

Income Tax Amendment Bill 2019

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An Act to amend the Income Tax Act 1997.

The Parliament of the Cook Islands enacts as follows—

- 1 Title**
This Act is the Income Tax Amendment Act 2019.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the assent of the Queen's Representative.
- 3 Principal Act amended**
This Act amends the Income Tax Act 1997 (the **principal Act**).
- 4 Section 2 amended (Interpretation)**
(1) Section 2 is amended by replacing the definitions of "Cook Islands company", "company", "entity", and "person" with the following definitions inserted in their appropriate alphabetical order:
"Cook Islands company" means a company incorporated in the Cook Islands, and includes a company incorporated or registered under the International Companies Act 1981-82

“company” means a body corporate whether incorporated in the Cook Islands or elsewhere; and—

(a) includes a company incorporated under the International Companies Act 1981-82; but

(b) does not include a local or public authority.

“entity” means—

(a) a government (whether island, state, regional, or local);

(b) a company, including a Cook Islands company, a partnership, a trust, or similar body or association.

“person” includes the following (but does not include a local or public authority):

(a) a company, including a Cook Islands company;

(b) a corporation sole;

(c) a body of persons whether incorporated or not.

(2) Section 2 is amended by inserting in its appropriate alphabetical order the following definition:

“**qualifying jurisdiction** means any jurisdiction that is not listed by the European Union Code of Conduct Group (or a similar or successor body) as a non-co-operative jurisdiction and is not declared to be a non-co-operative jurisdiction by regulations made under this Act”.

5 Section 42 amended (Incomes wholly exempt from taxation)

Section 42(1)(j) (exempt income) is repealed.

6 Section 85 amended (Credits in respect of Income tax paid in a country or territory outside the Cook Islands)

(1) The section 85 heading is amended by omitting “country or territory” and substituting “qualifying jurisdiction”.

(2) Section 85(1)(a)(i) is amended by omitting “country or territory” and substituting “qualifying jurisdiction”.

(3) Section 85(1)(a)(ii) is amended by omitting “country or territory” and substituting “qualifying jurisdiction”.

(4) Section 85(2) is amended by omitting “country or territory” and substituting “qualifying jurisdiction”.

This Act is administered by the Revenue Management Division of the Ministry of Finance and Economic Management.

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