

INCOME TAX AMENDMENT BILL 2022

EXPLANATORY NOTE

This note does not form part of the Bill but is intended to indicate its effect.

This Bill amends the Income Tax Act 1997 (“the principal Act”).

- Clause 1** is the short title and commencement. Several clauses will be retrospective in effect.
- Clause 2** clarifies the definition of additional tax and inserts a definition of aircraft in the principal Act.
- Clause 3** inserts a new section in the principal Act providing for the Collector of Inland Revenue (Treasurer of Revenue Management) to delegate functions and powers. It reflects the fact that not all work is done by him personally.
- Clause 4** extends the exemption from taxation for individual persons for a further 5 years on interest earned with specified banks in the Cook Islands.
- Clause 5** provides for an increase in the level of income that is free from taxation to \$10,000 p.a. for individuals who are tax residents of the Cook Islands. This clause provides a deduction from assessable income of \$10,000.
- Clause 6** limits the 100% (accelerated) depreciation claim to assets acquired before 1 April 2003.
- Clause 7** limits the expenditure able to be claimed against overseas sourced income.
- Clause 8** provides for the compounding nature of additional tax for late or non-payment of tax.
- Clause 9** abolishes the need for all departing persons to obtain a tax clearance certificate before departing the Cook Islands and replaces the section with provision for the Collector to issue a notice prohibiting departure from the Cook Islands in respect of tax defaulters.

- Clause 10** repeals the requirement for the Minister to approve waivers of additional tax and leaves this administrative matter with the Collector.
- Clause 11** provides for an increase in the rate of company tax to 28 cents in the dollar for foreign companies operating in the Cook Islands. It also amends the principal Act to give effect to the amendments made by clauses 5 and 12 (relating to tax deductibility for individual residents).
- Clause 12** provides for the different tax rates to apply to resident and non-resident taxpayers.
- Clause 13** repeals the Income Tax Amendment Act 1998. The new section 44 and new Parts C and D of the First Schedule incorporate most elements of that Act.
- Clause 14** provides transitional arrangements for the calculation of tax in respect of income (accounting) years ending on or before 30 June 2002 (in the case of clause 7) and ending on or before 30 June 2003 (in the case of clauses 5, 11(2), 12, and 13).

## INCOME TAX AMENDMENT (NO.2) BILL

### EXPLANATORY NOTE

This note does not form part of the Bill but is intended to indicate its effect.

This Bill amends the Income Tax Act 1997 (“the principal Act”).

- Clause 1** is the short title. This Bill, when enacted, will be retrospective to 1 July 1997.
- Clause 2** exempts the income of non-resident international airlines, derived from the carriage of things and passengers outside the Cook Islands, from taxation under the principal Act.
- Clause 3** supports the amendment made by clause 2, and removes air transport operators from the scope of the tax imposed under section 75 of the principal Act.

**HON. SIR GEOFFREY HENRY KBE**  
**INCOME TAX AMENDMENT (NO. 2)**

**ANALYSIS**

1	Title Short title and commencement	3	Overseas shipping freight and passage money
2	Incomes wholly exempt from taxation		

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**A BILL INTITULED**

An Act to amend the Income Tax Act 1997

**BE IT ENACTED** by the Parliament of the Cook Islands in Session assembled, and by the authority of the same as follows:

1. Short title and commencement – (1) This Act may be cited as the Income Tax Amendment (No.2) Act 2002 and shall be read together with and deemed part of the Income Tax Act 1997 (“the principal Act”).

(2) This Act is deemed to have come into force on 1 July 1997.

2. Incomes wholly exempt from taxation – **Section 42** of the principal Act is amended by–

(a) Adding to **subsection (1)** the following paragraph:

“(u) Income derived by an aircraft operator from air transport from the Cook Islands, where that aircraft operator–

(i) Is not resident (within the meaning of this Part of this Act) in the Cook Islands; and

**Income Tax Amendment (No. 2)**

(ii) Is licensed under the Air Services Licensing Act 1984 to engage in air transport from the Cook Islands.”; and

(b) Adding the following subsection:

“(3) In paragraph (u) of subsection (1), –

“Aircraft operator” means a person engaged in the business of operating any aircraft for air transport from any airport;

“Air transport” means the carriage by any aircraft of merchandise, goods, livestock, mail, or passengers emplaned or embarked on that aircraft at any airport;

“Air transport from the Cook Islands” means the carriage outside the Cook Islands by any aircraft of merchandise, goods, livestock, mail, or passengers emplaned or embarked on that aircraft at any airport in the Cook Islands; and such carriage shall be deemed to be outside the Cook Islands notwithstanding that the aircraft calls at any one or more other airports in the Cook Islands before leaving the Cook Islands on the flight for which that emplaning or embarking occurred.”

3. Overseas shipping freight and passage money – **Section 75(1) and (2)** of the principal Act is amended by omitting the words “or aircraft” wherever they occur.

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

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