



REPUBLIC OF NAURU

# BUSINESS TAX (AMENDMENT) BILL 2020

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No. of 2020

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A Bill for an Act to amend the *Business Tax Act 2016*.

Certified: [ ]

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Enacted by the Parliament of Nauru as follows:

**1 Short title**

This Act may be cited as the *Business Tax (Amendment) Act 2020*.

**2 Commencement**

This Act commences on 1 January 2021.

**3 Amendment of the Business Tax Act 2016**

The *Business Tax Act 2016* is amended by the provisions of this Act.

**4 Amendment of Section 3**

Section 3 is amended by inserting the following in alphabetical order:

**‘assessable foreign income’**, in relation to a resident person, means foreign income included in the gross revenue of the resident person;

**‘foreign income’** means an amount that is not derived from sources in Nauru;

**5 Amendment of Section 9**

Section 9(3) is amended:

- (a) in paragraph (b), by inserting at the end of the paragraph ‘, *or an interest in a resident company, resident partnership, or resident trust*’;
- (b) in paragraph (c), by inserting ‘, *at any time during the 365 days preceding the disposal of the interest,*’ after the word ‘if’;
- (c) in paragraph (d):
  - (i) by inserting ‘, *technical fee, management fee,*’ after ‘interest’;
  - (ii) in sub-paragraph (ii), by deleting ‘or’; and
- (d) in paragraph (e), by deleting the fullstop at the end of the paragraph and substituting ‘; *or*’;
- (e) by inserting a new paragraph (f) after paragraph (e) as follows:
  - ‘(f) a distribution paid by a resident company, resident partnership, or resident trust.’

## **6 Amendment of Section 11**

Section 11 is amended by inserting new subsections (2A) and (2B) immediately after subsection (2) as follows:

- ‘(2A) A tax credit allowed to a person for a tax year is offset against the person’s business profits tax liability calculated under subsection (2) for the year.
- (2B) Where a person is allowed more than one tax credit for a tax year, the tax credits are applied in the following order:
  - (a) the foreign tax credit allowed to the person under section 25A for the year; then
  - (b) the tax credit allowed to the person under section 41 for the year.’

## **7 Amendment of Section 17**

Section 17 is amended:

- (a) in subsection (1) by:
  - (i) deleting ‘subsection (2)’ and substituting ‘subsections (2) and (2A)’; and
  - (ii) by deleting the words ‘*from sources in Nauru*’;
- (b) in subsection (2), by inserting the word ‘*resident*’ before each of the words ‘company’, ‘partnership’, and ‘trust’; and
- (c) by inserting a new subsection (2A) immediately after subsection (2) as follows:
  - ‘(2A) For the purposes of subsection (1):
    - (a) the gross revenue of a resident person includes amounts derived from all sources both in and outside Nauru; and
    - (b) the gross revenue of a non-resident person includes only amounts derived from sources in Nauru.’

## **8 Insert new Division 3A of Part 3**

A new Division 3A is inserted immediately after Division 3 of Part 3 as follows:

### **‘Division 3A – Foreign Tax Relief and Foreign Losses**

## 25A Foreign Tax Credit

- (1) A resident person is allowed a credit, referred to as the “foreign tax credit”, for foreign income tax paid by the person in respect of the assessable foreign income of the person for a tax year.
- (2) The amount of the foreign tax credit allowed to a person for a tax year is limited to the business profits tax payable in respect of the assessable foreign income derived by the person for the year calculated by applying the average rate of business profits tax applicable to the resident person for the year against the net foreign income of the resident person for the year.
- (3) There is no:
  - (a) deduction for;
  - (b) carry forward; or
  - (c) refund of,any excess foreign tax credit for a tax year.
- (4) A resident person is allowed a foreign tax credit under this section for foreign income tax only where:
  - (a) the resident person has paid the foreign income tax within 2 years after the end of the tax year in which the foreign income was derived by the resident person or within such further time as the Secretary allows; and
  - (b) the resident person has a receipt and any additional documentary evidence as required by the Secretary that is provided by the foreign tax authority evidencing the payment of the foreign income tax.
- (5) In this Section and Section 25B:  
  
**‘average rate of business profits tax’**, in relation to a resident person for a tax year, means the business profits tax payable by the resident person for the year, before the allowance of any tax credit under this Act, as a