



REPUBLIC OF NAURU

Employment and Services Tax Bill

Bill No. 14 of 2014

A Bill for an Act to provide for the taxation of employment income and certain payments to non-residents, and for related purposes

Certified on [] 2014

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SCHEDULE

REPUBLIC OF NAURU

Employment and Services Tax Act

Act No. [] of 2014

An Act to provide for the taxation of employment income and certain payments to non-residents, and for related purposes

Certified on [] 2014

Enacted by the Parliament of Nauru as follows:

PART 1 - PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Employment and Services Tax Act 2014*.

2 Commencement and application

- (1) This Act commences on the date that notice of the Act is published in the Gazette.
- (2) This Act applies to employment income and services fees paid on or after the 1 October 2014.

3 Definitions

In this Act:

'approved form' has the meaning in the Revenue Administration Act;

'associate' has the meaning in section 4;

'employee' means an individual engaged in employment;

'employer' means a person who engages or remunerates an employee;

'employment' includes:

- (a) a directorship or other office in the management of a company or a body of persons;

- (b) a position entitling the holder to a fixed or ascertainable remuneration; or
- (c) the holding or acting in any public office;

‘employment income’ has the meaning in section 5;

‘international agreement’ means:

- (a) an agreement between the Government of Nauru and a foreign government for the prevention of double taxation; or
- (b) an agreement between the Government of Nauru and a foreign government or an international organisation for the provision of financial, technical, humanitarian, or administrative assistance to the Government;

‘international organisation’ means an organisation, the members of which are sovereign powers or governments of sovereign powers;

‘knowhow’ means any scientific, technical, commercial, management, or industrial information, techniques, knowledge, experience, or skill;

‘management fee’ means an amount as consideration for the rendering of any managerial service, but does not include employment income;

‘non-profit organisation’ has the meaning in section 6;

‘non-resident individual’ has the meaning in section 7;

‘non-resident person’ means a person who is not a resident person;

‘pay period’, in relation to an employee, means:

- (a) if the employee is paid monthly, a calendar month;
- (b) if the employee is paid fortnightly, a fortnight;
- (c) if the employee is paid weekly; a week; or
- (d) if the employee is paid on any other basis, the period specified in the notice served on the employee under section 17(3);

‘payer’ means a person liable to withhold tax under section 18;

‘permanent establishment’ means a fixed place of business through which the business of a person is wholly or partly carried on, and includes the following:

- (a) an office, factory, warehouse, or workshop, but does not include an office that has representation of the person's business as its sole activity;
- (b) a mine site, oil or gas well, quarry, or other place of exploration for, or extraction of, natural resources, including a boat or ship that provides a base for the exploration or extraction of natural resources;
- (c) a building site, construction, assembly or installation project, or supervisory activities connected with such site or project, but only if the site, project, or activities continue for more than ninety days;
- (d) the furnishing of services by a person, including consultancy services, through employees or other personnel engaged by the person for such purpose, but only if activities of that nature continue for the same or a connected project for a period or periods aggregating more than ninety days in any twelve-month period;
- (e) a person, other than an agent of independent status, acting on behalf of another person (referred to as the "principal"), when the first-mentioned person:
 - (i) has and habitually exercises an authority to conclude contracts on behalf of the principal; or
 - (ii) habitually maintains a stock of goods from which the person regularly delivers goods on behalf of the principal;

'person' means:

- (a) an individual;
- (b) a partnership, trust, company, or other body of persons;
- (c) the Government of Nauru, a local authority in Nauru, a foreign government, or a political subdivision of a foreign government;
or
- (d) an international organisation;

'received', in relation to a person, includes:

- (a) applied on behalf of the person either at the instruction of the person or under any law;