

# INCOME TAX AMENDMENT BILL 2015

## SAMOA

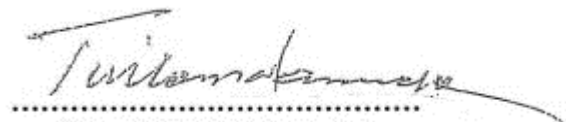
### Explanatory Memorandum

#### **Introduction**

The Bill seeks to amend the Income Tax Act 2012 (“Principal Act”). The objective of the Bill is to impose a new small business tax to replace the current taxable income for small business under section 36 of the Principal Act.

#### **Clauses:**

- Clause 1:** - provides the short title and commencement provisions.
- Clause 2:** - amends section 2 of the Principal Act by inserting new definitions in their correct alphabetical order.
- Clause 3:** - inserts new section 11A dealing with the new income tax regime for small business. Small businesses covered are those operating one (1) or two (2) taxis or buses or operating a small shop or flea market stall with less than \$130,000 annual turnover.
- Clause 4:** - amends section 27(1)(b) of the Principal Act to insert new subparagraph (iii) to provide for tax benefits to accrue to non-profit organisations established solely for charitable purposes, and renumber the same accordingly.
- Clause 5:** - amends Schedule 1 of the Principal Act to insert new paragraph (9) for the rate of small business tax pursuant to the proposed section 11A.
- Clause 6:** - provides for consequential amendments to the Principal Act, including repeal of section 36 of the Principal Act.

  
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(Hon TUILOMA Lameko)  
**MINISTER FOR REVENUE**

**INCOME TAX AMENDMENT BILL 2015**

**SAMOA**

Arrangement of Provisions

1. Short title and commencement
2. Section 2 amended
3. Section 11A inserted
4. Section 27 amended
5. Schedule 1 amended
6. Consequential amendments

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**2015, No.**

**A BILL INTITULED**

**AN ACT to amend the Income Tax Act 2012 (“Principal Act”).**

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:

**1. Short title and commencement-**(1) This Act may be cited as the Income Tax Amendment Act 2015.

(2) This Act commences on 1 January 2016.

(3) Section 11A of the Principal Act applies to tax years effective from 1 January 2016.

**2. Section 2 amended** - For section 2 of the Principal Act, insert the following definitions in their correct alphabetical order:

““small business tax” means the tax imposed under section 11A;

“turnover” in relation to a person for a tax year:

- (a) means the gross revenue from carrying on business, including the gross proceeds from the disposal of an asset of the business, derived by the person during the tax year; but
- (b) does not include the following -
  - (i) an amount that is exempt from taxation; or
  - (ii) an amount subject to taxation under section 10 or 11; or
  - (iii) an amount subject to withholding tax that is a final tax.”.

**3. Section 11A inserted** - After section 11 of the Principal Act insert:

**“11A. Small business tax-**(1) Subject to this Act, small business tax is to be levied and paid for the use of the Government for each tax year.

(2) A relevant person must pay the small business tax at the rate specified in paragraph (9) of Schedule 1.

(3) In determining the annual turnover of a relevant person for a tax year under this section, the Commissioner may have regard to the annual turnover of an associate or associates of the relevant person.

(4) A relevant person may apply in writing, to the Commissioner for section 9 to apply instead of this section.

(5) If the Commissioner is satisfied that a relevant person who has made an application under subsection (4) will keep proper records, the Commissioner may grant the application subject to any conditions as the Commissioner may specify by notice in writing to the applicant.

(6) In this section:

“flea market” means a place of business that provides spaces or stalls at one location to two (2) or more persons for the purpose of selling or supplying goods that is not permanently displayed or stored at the flea market, but does not include:

- (a) selling of goods by hawkers and peddlers; or
- (b) selling of Samoan food at a Samoan market established under the Samoan Market Ordinance 1927.

“flea market stall” means a business that principally involves the sale or supply of goods at a flea market;

“relevant person” means an individual to which this section applies who:

- (a) carries on any of the following businesses -
  - (i) operates one (1) or two (2) taxis;
  - (ii) operates one (1) or two (2) buses;
  - (iii) operates a small shop with an annual turnover of less than \$130,000; or
  - (iv) operates a flea market stall with an annual turnover of less than \$130,000; and
- (b) is not registered under the Value Added Goods and Services Tax Act 1993.

“small shop” means a business that principally involves the retail sale or supply of goods;”.

**4. Section 27 amended** - For Section 27(1)(b) of the Principal Act, for subparagraph (iii), substitute:

- “(iii) to a non-profit organisation established solely for charitable purposes; or
- (iv) to the Government through the Ministry responsible for Education, Sports and Culture to promote and encourage the development in Samoa of;”.

**5. Schedule 1 amended** - For Schedule 1 of the Principal Act after paragraph (8) insert:

“(9) The rate of small business tax for a relevant person pursuant to section 11A:

- (a) for a taxi operator, an annual tax of \$150 a taxi;
- (b) for the operator of a small shop with annual turnover of less than \$130,000, an annual tax of \$100;
- (c) for the operator of a flea market stall with an annual turnover of less than \$130,000, an annual tax of \$100;
- (d) for a bus operator -
  - (i) a bus with 8 to 15 seats, an annual tax of \$300 a bus; or
  - (ii) a bus with 16 to 33 seats, an annual tax of \$750 a bus.”.

**6. Consequential amendments** - For the Principal Act:

- (a) in section 9(5)(a), after “10,11,” insert “11A,”;
  - (b) in section 12 -
    - (i) for “10 and 11”, wherever it appears substitute “10, 11 and 11A”;
    - (ii) for paragraphs (c) and (d), for “10 or 11”, substitute “10, 11 or 11A”;
  - (c) section 36 is repealed.
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