

INCOME TAX AMENDMENT BILL 2017

SAMOA

Explanatory Memorandum

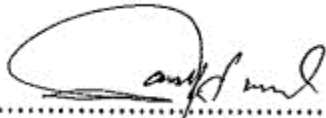
1.0 Object and reasons:

The Bill seeks to amend the Income Tax Act 2012 (“Act”) to impose tax on ministers of religion and the Head of State who are currently exempted from paying tax.

Clauses:

- Clause 1:** - provides for the short title and the different commencement dates of the Bill.
- Clause 2:** - amends section 2 of the Act to substitute definition of “employee” and insert new term, “minister of religion” and its definition.
- Clause 3:** - amends section 61 of the Act to insert the income of a minister of religion under the salary and wage income, and the definition of income of a minister for the purpose of this section.
- Clause 4:** - amends section 66(1) of the Act by repealing paragraph (c).
- Clause 5:** - amends section 93 of the Act to clarify that withholding tax by an employer does not apply to a minister of religion as the minister of religion is responsible for withholding tax from their salary and wage income. It further provides for a new section 93A to be inserted in the Act to clarify that an obligation to file salary and wage tax return lies on the minister of religion themselves.

- Clause 6:** - amends section 104A of the Act by substituting subsection (5).
- Clause 7:** - amends Schedule 1 of the Act by substituting the tables for clauses (1) and (7), and also substitute a new clause (8).
- Clause 8:** - amends schedule 2 of the Act by repealing paragraph (l), to remove minister of religion from the general exemption list and insert new paragraph (h).
- Clause 9:** - consequentially amends the Head of State Act 1965 by repealing section 6(a) of that Act so that the Head of State is also liable to pay income tax.



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(Hon TIALAVEA Fea Leniu Tionisio Hunt)

MINISTER FOR REVENUE

INCOME TAX AMENDMENT BILL 2017

SAMOA

Arrangement of Provisions

1. Short title and commencement
2. Section 2 amended
3. Section 61 amended
4. Section 66 amended
5. Section 93 amended
6. Section 104A amended
7. Schedule 1 amended
8. Schedule 2 amended
9. Consequential amendment

2017, 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 2017.
- (2) This Act commences as follows:
 - (a) sections 1, 4, 6 and 7(c) on 1 July 2017;
 - (b) sections 2, 3, 5, 7(a) and (b), 8(a) and 9 on 1 January 2018; and
 - (c) section 8(b) on a date nominated by the Minister.

2. Section 2 amended:

Section 2 of the principal Act is amended as follows:

- (a) for the definition of “employee”, substitute ““employee” means an individual engaged in employment and includes minister of religion”; and
- (b) insert:

““minister of religion” means an individual:

- (a) who is ordained, commissioned, appointed, or otherwise holds an office or position, regardless of their title or designation, as a minister of a religious denomination or community that meets the charitable purpose for the advancement of religion;
- (b) whose duties are related mainly to the practice or advancement of religious beliefs; and
- (c) whose duties are performed on a regular basis.”.

3. Section 61 amended:

In section 61 of the principal Act:

- (a) in subsection (1), after paragraph (f), substitute “full stop” with “semi colon” and insert:

“(g) income of minister of religion.”;

- (b) after subsection (9), insert:

“(10) For the purposes of this section, the income of a minister of religion whose sole occupation is the spiritual guidance of a specific congregation in Samoa is comprised of:

- (a) contributions made by members of the congregation; and
- (b) income received from performing services in their role as church ministers.”.

4. Section 66 amended:

In section 66(1) of the principal Act, repeal paragraph (c).

5. Section 93 amended:

In section 93 of the principal Act:

(a) after subsection (2), insert:

“(3) Subsection (1) does not apply to a minister of religion as the minister of religion will be responsible for withholding tax from his or her salary and wage income.”.

(b) after section 93, insert:

“93A.Obligation to file salary and wage tax return:

(1) An employer must file a salary and wage tax return on a monthly basis setting out salary and wage income received by an employee.

(2) Subsection (1) does not apply to minister of religion.

(3) A minister of religion can either choose to file his or her own salary and wage tax return on a monthly basis or choose a third party to fulfil his or her reporting obligations.

(4) Where a minister of religion chooses a third party to fulfil their reporting obligations under this section, the minister of religion must remain responsible for fulfilling these reporting requirements and the actions of the third party are imputed to the minister of religion.”.

6. Section 104A amended:

In section 104A of the principal Act, for subsection (5), substitute:

“(5) This section expires on 30 June 2017, without affecting the validity of anything done or suffered under this section or any right, interest, or title already acquired, accrued, or established, or any remedy or proceeding for any credit allowed under this section.”.

7. Schedule 1 amended:

In Schedule 1 of the principal Act:

(a) in clause (1), for the table, substitute:

Taxable Income (\$)	Rate of Tax
0 - 15,000	NIL
15,001 - 25,000	20%
25,001 +	27%

(b) in clause (7), for the table substitute:

Salary and wage income for fortnight (\$)	Rate of salary wage and income tax
0 - 576	NIL
577 - 962	20%
963+	27%

(c) for clause (8), substitute:

“(8) If an asset is sold within 12 months, the rate of capital gains tax is 10%; and if sold over 12 months, the rate of capital gains tax is 27%.”.

8. Schedule 2 amended:

In Schedule 2 of the principal Act:

- (a) in Part A(1), paragraph (l) is repealed;
- (b) in Part B(1), for paragraph (h), substitute:

“(h) 50% of the income tax payable to be paid only by exporters of goods (re-export excluded) provided exporters remit back to Samoa 100% of profits from overseas sales of exports.”.

9. Consequential amendment:

In section 6 of the Head of State Act 1965, repeal paragraph (a).
