

# TAX ADMINISTRATION AMENDMENT BILL 2014

## SAMOA

### Explanatory Memorandum

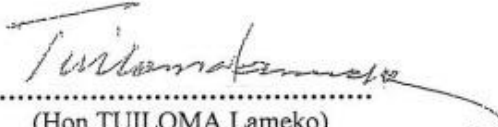
#### Introduction

The Bill seeks:

- (a) to amend the Tax Administration Act 2012; and
- (b) to amend the Income Tax Act 2012 (ITA) by -
  - (i) removing the reference to funds obtained under an international agreement under section 95(1) of the ITA, for withholding tax; and
  - (ii) adding new paragraphs to section 106(1) and Schedule 2 of the ITA.

#### Clauses:

- Clause 1: - states that, when enacted, the Bill will be called the Tax Administration Amendment Act 2014, and will commence on the date of assent by the Head of State.
- Clause 2: - inserts new section 9A.
- Clause 3: - provides for consequential amendment.
- Clause 4: - provides for transitional and saving provisions. Validation of withholding tax collected under section 95(1) of the ITA from 1 January 2013.

  
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(Hon TUILOMA Lameko)  
MINISTER FOR REVENUE

**TAX ADMINISTRATION AMENDMENT BILL 2014**

**SAMOA**

Arrangement of Provisions

- |                                 |                            |
|---------------------------------|----------------------------|
| 1. Short title and commencement | 3. Consequential amendment |
| 2. New section 9A inserted      | 4. Transitional and saving |

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**2014, No.**

**A BILL INTITULED**

**AN ACT to amend the Tax Administration Act 2012.**

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

**1. Short title and commencement** - This Act may be cited as the Tax Administration Amendment Act 2014, and commences on the date of assent by the Head of State.

**2. New section 9A inserted** - After section 9 of the Tax Administration Act 2012, insert:

**“9A. Information required for court proceedings by the Government-**(1) If a document is required in any proceedings, the Attorney General may request the Commissioner to release the document to the Attorney General.

(2) When deciding the request under subsection (1), the Commissioner must take into account the following:

(a) for criminal proceedings -

(i) that the offence is serious offence;  
and

(ii) that there is a clear connection between the document requested and the elements of the serious offence to be proved; and

(iii) whether there is a need for the taxpayer to whom the document relates to be notified or to give consent before the documents are released; and

(iv) any other matter that the Commissioner thinks fit for the purpose of the request;

(b) for civil proceedings -

(i) that the proceedings relate to a claim involving the State; and

(ii) that the document is relevant to the claim or issue of quantum of the damages or compensation; and

(iii) whether there is a need for the taxpayer to whom the document relates to be notified or to give consent before the documents are released; and

(iv) any other matter that the Commissioner thinks fit for the purpose of the request.

(3) A document released under this section is required to be kept secret except for the purpose of the proceedings or as agreed by the Commissioner and the Attorney General.

(4) This section is an exception to section 9.

(5) In this section:

“document” means any information or document about a taxpayer received and kept under this Act or any other tax law;

“proceedings” means criminal proceedings for a serious offence or civil proceedings for or against the Government;

“serious offence” means an offence which carries a fine of at least 50 penalty units or an imprisonment term of at least five (5) years.”.

**3. Consequential amendment** - In the Income Tax Act 2012:

(a) for section 95(1), delete “if the fee is paid out of funds obtained under an international agreement”; and

(b) for section 106(1) -

(i) renumber the current paragraph “(b)” as “(c)”; and

(ii) insert the following new paragraph (b):

“(b) to provide for registration of employers or other persons for the purpose of this Act;”;

(c) in Schedule 2 -

(i) at the end of paragraph (z), substitute the full stop with a semi colon; and

(ii) after paragraph (z) insert:

“(za) the income of the Central Bank of Samoa.”.

**4. Transitional and saving-**(1) This Act also applies to any proceedings pending in Court at the commencement of this Act.

(2) Any withholding tax collected under section 95(1) of the Income Tax Act 2012 from 1 January 2013 from a resident person (other than a resident person in relation to funds obtained under international agreement) is validated as if it were collected under this Act.

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