

# TAX INFORMATION EXCHANGE AMENDMENT BILL 2018

## SAMOA

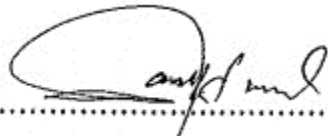
### Explanatory Memorandum

#### **Introduction**

The Bill seeks to amend the *Tax Information Exchange Act 2012* (Act). The objective of the Bill is to implement the international obligations of Samoa under the Automatic Exchange of Information of Financial Account Information in Tax Matters.

#### **Clauses:**

- Clause 1:** - provides for the short title and commencement.
- Clause 2:** - amends section 2 of the Act to insert a new definition “Foreign Jurisdiction” to mean any jurisdiction other than Samoa or the United States of America.
- Clause 3:** - amends section 10B of the Act to omit the definition “reportable jurisdiction”.
- Clause 4:** - amends section 10K of the Act to substitute the word “account” with “institution”.
- Clause 5:** - amends Schedule 3 of the Act.



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(Hon TIALAVEA Fea Leniu Tionisio Hunt)

**MINISTER FOR REVENUE**

**TAX INFORMATION EXCHANGE AMENDMENT BILL 2018**

**SAMOA**

**Arrangement of Provisions**

1. Short title and commencement
2. Section 2 amended
3. Section 10B amended
4. Section 10K amended
5. Schedule amended

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**2018, No.**

**A BILL INTITULED**

**AN ACT** amend the Tax Information Exchange 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 Tax Information Exchange Amendment Act 2018.
- (2) This Act commences on the date of assent.

**2. Section 2 amended:**

In section 2 of the Principal Act, insert in its alphabetical order the following new definition:

““Foreign Jurisdiction” means any jurisdiction other than Samoa or the United State of America;”.

**3. Section 10B amended:**

In section 10B of the Principal Act, omit the definition for “reportable jurisdiction”.

**4. Section 10K amended:**

In section 10K(b) of the Principal Act, for “account” substitute “institution”.

**5. Schedule amended:**

Schedule 3 of the Principal Act is amended as follows:

- (a) For Section C, substitute:

“C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Preexisting Account or with respect to each Financial Account that is opened prior to becoming a Reportable Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to these accounts OR each Reportable Account that is a

Preexisting Account and with respect to each Financial Account that is opened prior to becoming a Reportable Account by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.”;

(b) In section III -

(i) For the description after the heading, substitute:

“The following procedures apply with respect to Preexisting Individual Accounts”;

(ii) in subparagraph B(2)(a) to (f), for “Reportable Jurisdiction” substitute “Foreign Jurisdiction”;

(iii) in subparagraph B(4), for “Reportable Jurisdiction” substitute “Foreign Jurisdiction”;

(iv) subparagraph B(6), for “Reportable Jurisdiction” wherever occurring, substitute “Foreign Jurisdiction”;

(v) in subparagraph B(6)(a)(ii), and (b)(ii), for “non-reportable status” substitute “residence for tax purposes other than such Foreign Jurisdiction”;

(vi) in subparagraph C(5)(a), for “Reportable Person” substitute “resident for tax purposes in a Foreign Jurisdiction”;

- (vii) in subparagraph C(5)(b), for “Reportable Account with respect to each Reportable Jurisdiction”, substitute “resident for tax purposes of each Foreign Jurisdiction”;
  - (viii) in subparagraph C(8) and (9), for “Reportable Jurisdiction” substitute “Foreign Jurisdiction”;
- (c) in Section IV, for the description after the heading substitute:

“The following procedures apply with respect to New Individual Accounts”;
- (d) in section V, subparagraph B, for “paragraph D”, substitute “Paragraph C”;
- (e) in section VI -
  - (i) For the description after the heading substitute:

“The following procedures apply with respect to New Entity Accounts”;
  - (ii) In subparagraph A(1)(a), substitute and insert:

“(a) Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder’s residence(s) for tax purposes and TIN and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures. If the Entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the

Entity to determine the residence of the Account Holder.”;

- (f) in section VI, subparagraph A(2)(c), omit “is a Reportable Person”.

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