

## 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 INTITLED

**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.

## TULAFONO TAU FAAOFI O TEUTEUGA O LE TULAFONO O LAFOGA O TUPE MAUA 2015

### SAMOA

#### Faatulagaina o Aiaiga

1. Igoa puupuu ma le amataga
2. Ua teuteuina le fuaiupu 2
3. Ua faaofiina le fuaiupu 11A
4. Ua teuteuina le fuaiupu 27
5. Ua teuteuina le Faamatalaga 1
6. Teuteuga faatupulaia

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2015, Nu.

#### O SE TULAFONO TAU FAAOFI UA TAU

**O SE TULAFONO e teuteu ai le Tulafono o Lafoga o Tupe Maua 2012 (“Tulafono Autu”).**

**UA FAIA** e le Fono Aoaofaitulafono o Samoa i totonu o le Palemene ua potopoto e faapea:

**1. Igoa puupuu ma le amataga-**(1) E mafai ona taua leni Tulafono o le Tulafono o Teuteuga o le Tulafono o Lafoga o Tupe Maua 2015.

(2) O leni Tulafono e amata faamamaluina mai le aso 1 Ianuari 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) E faaaogā le fuaiupu 11A o le Tulafono Autu i tausaga faale-lafoga ma e amata faamamaluina mai le aso 1 Ianuari 2016.

**2. Ua teuteuina le fuaiupu 2** - Mo le fuaiupu 2 o le Tulafono Autu, ia faaofi o faamatalaga nei, i o latou faasologa sao i le pi faitau faa-Peretania.

““lafoga o pisinisi laiti” o lona uiga o le lafoga ua faaee atu i lalo o le fuaiupu 11A;

“tupe maua” e faasino i se tagata mo se tausaga faale-lafoga:

(a) o lona uiga o le aofaiga atoa o tupe maua mai le faatinoina o pisinisi, e aofia ai le aofaiga atoa o tupe e tatau ona maua mai le faamatuuina atu o se aseta o le pisinisi, na mauaina e le tagata a o faagasolo le tausaga faale-lafoga; peitai

(b) e lē aofia ai itu nei o le a taua -

(i) se aofaiga ua tuusaunoaina mai lafoga; po o

(ii) se aofaiga ua noatia i lafoga i lalo o le fuaiupu 10 po o le 11; po o

(iii) se aofaiga ua noatia i lafoga taofiofi lea ua aveva ma lafoga mausali.”.

**3. Ua faaofiina le fuaiupu 11A** - I le tuanai ai o le fuaiupu 11 o le Tulafono Autu, ia faaofi e faapea:

**“11A. Lafoga o pisinisi laiti-**(1) I le noatia ma le fai fuafua i lenei Tulafono, e ao ona faaee atu ma totogi lafoga o pisinisi laiti mo le faaaogāina e le Malo mo tausaga taitasi faale-lafoga.

(2) E ao ona totogiina atu e se tagata talafeagai le lafoga o pisinisi laiti i le fua faatatau ua faamaotiina i totonu o le parakalafa (9) o le Faamatalaga 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:

(3) I le fuafuaina o le tupe maua faaletausaga a se tagata talafeagai mo se tausaga faale-lafoga i lalo o lenei fuaiupu, e mafai e le Komesina ona amanaia o tupe maua faaletausaga a se tagata po o ni tagata o lo o galulue faatasi ma le tagata talafeagai.

(4) E mafai e se tagata talafeagai ona talosaga i le Komesina e ala i se faiga tusitusia, mo le faaaogāina o le fuaiupu 9 ae le o lenei fuaiupu.

(5) Afai ua faamalieina le Komesina e faapea o le tagata talafeagai, o ia lea na faia se talosaga i lalo o le faafuaiupu (4), o le a ia tausaga o faamaumauga talafeagai, e mafai e le Komesina ona taliaina le talosaga, i le noatia ma le fai fuafua i so o se tuutuuga, e pei ona mafai ona faamaotiina e le Komesina e ala i se faaaliga tusitusia i le tagata talosaga.

(6) I totonu o lenei fuaiupu:

“maketi o oloa laiti eseese” o lona uiga o se nofoaga o pisinisi lea ua tuuina atu o avanoa po o fausaga lē tumau e faatau atu ai oloa i se nofoaga se tasi i le toalua (2) po o le sili atu o tagata, mo le faamoemoe o le faatauina atu po o le tuuina atu o oloa e lē tumau le faalauiloaina po o le teuina i le maketi o oloa laiti eseese, peitai e lē aofia ai:

(a) le faatauina atu o oloa e tagata o faatau savali oloa ma tagata o faatauina atu oloa taitasi laiti; po o

(b) le faatauina atu o taumafa Samoa i se maketi a Samoa ua faatuina i lalo o le Tulafono o Maketi a Samoa 1927.

“fausaga lē tumau e faatau atu ai oloa i le maketi o oloa laiti eseese” o lona uiga o se pisinisi ua faapitoa lava mo le faatauina atu po o le tuuina atu o oloa i totonu o se maketi o oloa laiti eseese;

“tagata talafeagai” o lona uiga o se tagata e toatasi o ia lea ua faatatau i ai lenei fuaiupu, o lo o:

- (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:

- (a) faatinoina so o se tasi o pisinisi nei -
- (i) e tasi (1) po o le lua (2) taavale laiti laupasese o lo o faagaoioia;
  - (ii) e tasi (1) po o le lua (2) pasi o lo o faagaoioia;
  - (iii) o lo o faagaoioia se faleoloa laitiiti e itiiti ifo i lo le \$130,000 le tupe maua faaletausaga; po o
  - (iv) o lo o faagaoioia se fausaga lē tumau o faatau atu ai oloa i totonu o le maketi o oloa laiti eseese, ma e itiiti ifo i lo le \$130,000 le tupe maua faaletausaga; ma

(b) e le o faamauiina i lalo o le Tulafono o Lafoga o Oloa ma Galuega Faatino e Faia i Luga o Aofaiga o Tau 1993.

“faleoloa laiti” o lona uiga o se pisinisi e faapitoa lava i le faatauina atu o oloa taitasi po o le tuuina atu o oloa;”.

**4. Ua teuteuina le fuaiupu 27** - Mo le fuaiupu 27(1)(b) o le Tulafono Autu, mo le faaparakalafa (iii), ia suia e faapea:

“(iii) i se faalapotopotoga e le o se faalapotopotoga sue tupe na faavaeina faapitoa lava mo faamoemoega o galuega alofa; po o

(iv) i le Malo e ala i le Matagaluega e fitoitonu ma Aoga, Taaloga ma Aganuu ina ia uunaia ma faamalosi tulaga tau le atinae i totonu o Samoa o:”.

**5. Ua teuteuina le Faamatalaga 1** - Mo le Faamatalaga 1 o le Tulafono Autu, i le tuana'i ai o le parakalafa (8), ia faaofi e faapea:

“(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.

“(9) O le fua faatatau o lafoga o pisinisi laiti mo se tagata talafeagai e tusa ai ma le fuaiupu 11A:

- (a) mo se tagata e faagaoioia ni taavale laiti laupasese, o le lafoga faaletausaga e \$150 i le taavale laitiiti laupasese e tasi;
- (b) mo le tagata e faagaoioia se faleoloa laititi, e itiiti ifo i lo le \$130,000 se tupe maua faaletausaga, o le lafoga faaletausaga e \$100;
- (c) mo se tagata e faagaoioia se fausaga lē tumau e faatau atu ai oloa i le maketi o oloa laiti eseese, e itiiti ifo i lo le \$130,000 le tupe maua faaletausaga, o le lafoga faaletausaga e \$100;
- (d) mo se tagata e faagaoioia ni pasi -
  - (i) o se pasi e 8 i le 15 nofoa, o le lafoga faaletausaga e \$300 i le pasi e tasi; po o
  - (ii) o se pasi e 16 i le 33 nofoa, o le lafoga faaletausaga, e \$750 i le pasi e tasi.”.

**6. Teuteuga faatupulaia** - Mo le Tulafono Autu:

- (a) i totonu o fuaiupu 9(5)(a), i le tuanai ai o le “10, 11,” ia faaofiina le “11A,”;
- (b) i totonu o le fuaiupu 12 -
  - (i) mo le “10 ma le 11”, i fea lava o aliali mai ai, ia suia i le “10, 11 ma le 11A”;
  - (ii) mo parakalafa (c) ma le (d), mo le “10 po o le 11”, ia suia i le “10, 11 po o le 11A”;
- (c) ua soloia le fuaiupu 36.