

TRUSTS AMENDMENT BILL 2016

SAMOA

Explanatory Memorandum

1.0 **Object and reasons:**

- 1.1 The Bill seeks to amend the Trusts Act 2014 (“principal Act”).
- 1.2 The objects of the Bill are:
 - (a) to re-define the definition of “foreign benefitting trusts” to remove reference to a “citizen of Samoa”. If that person becomes a resident in Samoa, he/she will be subject to tax in Samoa;
 - (b) to insert new section 51A to include a provision which relates to further additions of property to a Samoan International Special Trust Arrangement (SISTA);
 - (c) to amend section 63 of the principal Act to provide combination of trust with limited partnerships;
 - (d) to amend section 80(2) of the principal Act to address instances whereby if a request is properly and legally made for information in respect of a Double Taxation Agreement (DTA) or Tax Information Exchange Agreement (TIEA) then, subject to the provisions of the DTA or TIEA, the information must be provided;

- (e) to insert the new section 80A to the principal Act to provide that, where the trustee or one of the trustees of a Samoan trust is either a trust corporation or a natural person, who is a tax resident of Samoa, that trustee is required to obtain and retain such accounting and other information concerning the trust as may be required under the laws of Samoa.

Clauses:

- Clause 1:** - provides for the short title and commencement provisions.
- Clause 2:** - amends section 2 of the principal Act by substituting the definition of “foreign benefitting trust”.
- Clause 3:** - inserts new section 51A in relation to additions to SISTAs to deal with addition of property.
- Clause 4:** - amends section 63 of the principal Act to combine trusts with limited partnerships.
- Clause 5:** - amends section 80(2) of the principal Act to provide that a trustee must provide accurate information on a status and amount of the trust property and the administration of it if it is required under a Double Taxation Agreement or Tax Information Exchange Agreement properly made.

- Clause 6:** - inserts new section 80A of the principal Act in relation to obtaining and retaining of information by a trustee of a Samoan Trust who is a tax resident in Samoa.

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(Hon SILI Epa Tuioti)

**MINISTER OF FINANCE AND MINISTER RESPONSIBLE
FOR THE SAMOA INTERNATIONAL FINANCE AUTHORITY**