

No. 42 of 2002.

***Income Tax (2003 Budget Provisions) Act 2002.***

Certified on: 16.07.03



INDEPENDENT STATE OF PAPUA NEW GUINEA

No. of 2002.

*Income Tax (2003 Budget Provisions) Act 2002.*

ARRANGEMENT OF SECTIONS.

1. Repeal and replacement of Section 69.  

**"69. DEDUCTIONS FOR GIFTS TO POLITICAL PARTIES."**
2. Losses of previous years (Amendment of Section 101).
3. Losses of previous years of amalgamating company on qualifying amalgamation (Amendment of Section 145I).
4. Allowable exploration expenditure (Amendment of Section 155A).
5. Deduction for allowable capital expenditure (Amendment of Section 155E).
6. Additional deduction for exploration expenditure incurred outside the resource project (Amendment of Section 155N).
7. Resource operations by contractors, profit sharing arrangements, etc. (Amendment of Section 155P).
8. New Sections 156D, 156E and 156F.  

**"156D. ADDITIONAL DEDUCTION FOR EXPLORATION EXPENDITURE INCURRED OUTSIDE THE MINING PROJECT"**

**"156E. DOUBLE DEDUCTION OF EXPLORATION EXPENDITURE"**

**"156F. ADDITIONAL PROVISIONS FOR DEDUCTION OF ALLOWABLE CAPITAL EXPENDITURE"**
9. Interpretation (Amendment of Section 159A).
10. Mining levy (Amendment of Section 160).

11. Taxable management fee (Amendment of Section 196S).
12. Non-application of division (Amendment of Section 213C).
13. Rebate of salary or wages tax (Amendment of Section 214).
14. Credits in respect of prescribed infrastructure development (Amendment of Section 219C).



INDEPENDENT STATE OF PAPUA NEW GUINEA

AN ACT

entitled

*Income Tax (2003 Budget Provisions) Act 2002.*

Being an Act to amend the *Income Tax Act 1959*.

MADE by the National Parliament to come into operation on 28 November 2002.

1. **REPEAL AND REPLACEMENT OF SECTION 69.**

Section 69 of the Principal Act is repealed and replaced with the following:-

**“69. DEDUCTIONS OF GIFTS TO POLITICAL PARTIES.**

(1) In this section –

“candidate” means a person who has nominated or who nominates for election to the Parliament and includes a former candidate;

“Central Fund” means the Central Fund established under Section 54 of the *Organic Law on the Integrity of Political Parties and Candidates*;

“registered political party” means a political party, registered under Section 26 or deemed to be registered under Section 6(3), of the *Organic Law on the Integrity of Political Parties and Candidates*.

(2) Gifts of the value of K50.00 and upwards of money, or of property other than money, purchased by the taxpayer in the 12 months immediately preceding the making of the gift, made by a taxpayer to the Central Fund, a registered political party or a candidate shall be an allowable deduction, subject to the following limits :-

*Income Tax (2003 Budget Provisions)*

- (a) to the Central Fund – to an unlimited extent;
- (b) to a registered political party – of a value not exceeding in total K500,000.00 in any one calendar year;
- (c) to a candidate – of a value not exceeding in total K500,000.00 in respect of any one election."

**2. LOSSES OF PREVIOUS YEARS (AMENDMENT OF SECTION 101).**

Section 101 of the Principal Act is amended –

- (a) in Subsection (3) , by repealing the words "20 years immediately preceding the year of income" and replacing them with the following:-  
"20 years immediately preceding the year of income or, for taxpayers carrying on resource operations as defined in Section 155(1), in any year preceding the year of income"; and
- (b) in Subsection (4) , by repealing the words "20 years immediately preceding the year of income" and replacing them with the following:-  
"20 years immediately preceding the year of income or, for taxpayers carrying on resource operations as defined in Section 155(1), in any year preceding the year of income"; and
- (c) by inserting after Subsection (4) the following a new Subsection:-  
“(4A) Notwithstanding any other provision of this section, no loss incurred on or before 31 December 2002 shall be deductible, that, under the provisions in force prior to 1 January 2003, would not have been deductible from income derived in the year ended 31 December 2002 or in a later year.”; and
- (d) in Subsection (6) , by repealing the words "20 years immediately preceding the year of income" and replacing them with the following:-  
"20 years immediately preceding the year of income or, for taxpayers carrying on resource operations as defined in Section 155(1), in any year preceding the year of income”.

**3. LOSSES OF PREVIOUS YEARS OF AMALGAMATING COMPANY ON QUALIFYING AMALGAMATION (AMENDMENT OF SECTION 145I).**

Section 145I of the Principal Act is amended by repealing the words “so much of the loss as would have been deductible in any of the seven years immediately preceding the amalgamation and during the year of amalgamation up to the date of amalgamation as has not been allowed as a deduction from its income of any of those years” and replacing them with the following:-

“so much of the loss as, on the date of amalgamation, would have been deductible from income under the provisions of Section 101, 101A or 101F, in a tax return prepared for the period ending on that date”.

*Income Tax (2003 Budget Provisions)*

**4. ALLOWABLE EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 155A).**

Section 155A of the Principal Act is amended in Subsection (6) by inserting after Paragraph (c) the following new Paragraph:-

“(d) subject to Section 156E, any amount of exploration expenditure for which a deduction has been allowed or is allowable under the provisions of Section 155N.”.

**5. DEDUCTION FOR ALLOWABLE CAPITAL EXPENDITURE (AMENDMENT OF SECTION 155E).**

Section 155E(1) of the Principal Act is amended by repealing the words “Subject to Sections 155F and 155I” and replacing them with the following:-

“Subject to Sections 155F, 155I and 156F”.

**6. ADDITIONAL DEDUCTION FOR EXPLORATION EXPENDITURE INCURRED OUTSIDE THE RESOURCE PROJECT (AMENDMENT OF SECTION 155N).**

Section 155N of the Principal Act is amended –

(a) in Subsection (3)(b) by inserting immediately before the words “such amount as reduces the income tax” the following:-

“subject to Section 156D,”; and

(b) by inserting after Subsection (5) the following new Subsection:-

“(6) Subject to Section 156E, no deduction shall be allowable under any other provision of this Act for any amount of exploration expenditure that has been allowed as a deduction from assessable income under the provisions of this section.”.

**7. RESOURCE OPERATIONS BY CONTRACTORS PROFIT SHARING ARRANGEMENTS, ETC. (AMENDMENT OF SECTION 155P).**

Section 155P of the Principal Act is amended in Subsection (3)(a) by inserting, after the words “has carried on, or is carrying on,” the following:-

“resource operations”.

*Income Tax (2003 Budget Provisions)*

8. **NEW SECTIONS 156D, 156E AND 156F.**

The Principal Act is amended by inserting after Section 156C the following new Sections:-

**"156D. ADDITIONAL DEDUCTION FOR EXPLORATION EXPENDITURE INCURRED OUTSIDE THE MINING PROJECT.**

Notwithstanding the limitation in Section 155N(3)(b), for taxpayers carrying on mining operations and exploring for minerals, the limitation in that subsection shall be such amount as reduces the income tax which would, but for this section, be payable by the taxpayer in respect of those mining operations for that year of income, by 25%."

**"156E. DOUBLE DEDUCTION OF EXPLORATION EXPENDITURE.**

Notwithstanding the provisions of Sections 155A(6)(d) and 155N(6), exploration expenditure that has been incurred on or after 1 January 2003 and has been deducted, or remains deductible, under the provisions of Section 155N, shall be allowable exploration expenditure to the extent it was incurred pursuant to an exploration licence issued under the *Mining Act 1992*, from which a mining development licence was drawn on or after 1 January 2003."

**"156F. ADDITIONAL PROVISIONS FOR DEDUCTION OF ALLOWABLE CAPITAL EXPENDITURE.**

(1) This section applies to taxpayers carrying on mining operations pursuant to a mining lease or special mining lease issued under the *Mining Act 1992*, on or after 1 January 2003.

(2) For taxpayers qualifying under this section, Paragraphs (a) and (b) of Section 155E(1) shall be disregarded and allowable capital expenditure shall be deducted in the manner set out in Subsection (3).

(3) For all allowable capital expenditure there shall be established a pool of expenditure, to which shall be added allowable capital expenditure on such assets each year and from which shall be deducted –

(a) the amount of any deductions allowed against the amount of the pool for that year; and

(b) the receipts, if any, from the sale or disposal of any assets forming part of the amount of the pool during the year,

and the deduction allowable each year shall be 25% of the value of the pool at the end of that year.

(4) All provisions of Section 155E, other than Subsection (1)(a) and (b), shall be applicable to the taxpayer in an unchanged manner."

*Income Tax (2003 Budget Provisions)*

**9. INTERPRETATION (AMENDMENT OF SECTION 159A).**

Section 159A(1) of the Principal Act is amended –

(a) in Paragraph (b) of the definition of “project deductions” by repealing the words and figure “Section 158D(3)” and replacing them with the following:-

“Section 158D(2)”; and

(b) by inserting in alphabetical order the following new definition:-

“resource project”, in this Subdivision, means the gas project as defined in Clause 1 of the *Gas Agreement* between the State, the Bank of Papua New Guinea and the Developers signed in Port Moresby on 6 June 2002.”.

**10. MINING LEVY (AMENDMENT OF SECTION 160).**

Section 160 of the Principal Act is amended by repealing Subsection (2) and replacing it with the following:-

“(2) The mining levy calculated as per Subsection (1) shall be reduced by 25% for imports and purchases made during the calendar year 2002 and thereafter.”.

**11. TAXABLE MANAGEMENT FEE (AMENDMENT OF SECTION 196S).**

Section 196S of the Principal Act is amended by adding after the word and figure “Section 68AD” the following:-

“or Section 155M, as the case may be.”.

**12. NON-APPLICATION OF DIVISION (AMENDMENT OF SECTION 213C).**

Section 213C of the Principal Act is amended in Paragraph (b) by repealing the figure “K17,072.00” and replacing it with the following:-

“K17,428.00”.

**13. REBATE OF SALARY OR WAGES TAX (AMENDMENT OF SECTION 214).**

Section 214(1)(a)(ii) is amended by inserting immediately after the figure ‘69E’ the following :-

“69F, 69G, 69H, 69I, 69J.”.

*Income Tax (2003 Budget Provisions)*

**14. CREDITS IN RESPECT OF PRESCRIBED INFRASTRUCTURE DEVELOPMENT (AMENDMENT OF SECTION 219C).**

Section 219C of the Principal Act is amended –

(a) in Subsection (1) by inserting in alphabetical order the following new definitions:-

""Gas Agreement" means the *Gas Agreement* between the State, the Bank of Papua New Guinea and the Project Developers signed in Port Moresby on the 6<sup>th</sup> of June 2002;

"gas project companies" mean the companies defined as gas project companies in Section 1.1 of the Gas Agreement;" and

(b) by adding after Subsection (7) the following new Subsections:-

"(8) Where a gas project company incurs expenditure on behalf of the State on the construction, upgrading or repair of a road defined under the heading 'State Road Commitments' in Section 1(a) of Attachment 3 to the Gas Agreement, the amount of such expenditure is, subject to this section, deemed to be income tax paid in respect of that taxpayers liability assessed for the year of tax relating to that year of income, limited to the lesser of –

(a) 1.25% of the assessable income derived by the taxpayer in the year of income, which shall be additional to the amount provided in Subsection (2)(a); or

(b) 50% of the amount of tax payable.

"(9) Expenditure incurred or income tax deemed to be tax paid under Subsection (8) may be carried forward, separately from expenditure deemed to be income tax paid under Subsection (2) and the provisions of Subsections (3), (4) and (5) shall apply in the same manner they apply to expenditure incurred or tax deemed under the provisions of Subsection (2)."

*Income Tax (2003 Budget Provisions)*

I hereby certify that the above is a fair print of the *Income Tax (2003 Budget Provisions) Act 2002* which has been made by the National Parliament.

*Acting Clerk of the National Parliament.*

I hereby certify that the *Income Tax (2003 Budget Provisions) Act 2002* was made by the National Parliament on 10 December 2002.

*Acting Speaker of the National Parliament.*