

31/01/96

No. 36 of 1995.

Income Tax (Porgera Acquisition) Act 1995.

Certified on: 15.1.96

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

Income Tax (Porgera Acquisition) Act 1995.

ARRANGEMENT OF SECTION.

1. New Division 10B of Part III -

 "Division 10B. - Porgera Acquisition."

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

AN ACT

entitled

Income Tax (Porgera Acquisition) Act 1995,

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

MADE by the National Parliament to come into operation, or be deemed to have come into operation, on a date (which may be a retrospective date) specified in a notice published in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister responsible for mining and petroleum matters.

1. NEW DIVISION 10B OF PART III

Part III of the Principal Act is amended by inserting after Division 10A the following new Division:-

"Division 10B. - Porgera Acquisition.

"165D. INTERPRETATION.

(1) In this Division, unless the contrary intention appears -
"Effective Date" means 1 March 1993;

"Interest" means the 15% Percentage Interest in the
Porgera Project being acquired by the State Nominee
under the Porgera Acquisition Agreements;

"Porgera Acquisition Agreements" means the agreements
between the State and each Seller individually and
others, providing for the acquisition from each Seller by
the State Nominee of a 5% Percentage Interest in the
Porgera Project;

"Residual Interest" means, in respect of a Seller, the
Percentage Interest in the Porgera Project which it
retains after the effective date;

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"Sellers" means respectively Placer (PNG) Pty. Limited, Highlands Gold Properties Pty. Limited and RGC (Papua New Guinea) Pty. Limited, as sellers each of a 5% Percentage Interest in the Porgera Project under the Porgera Acquisition Agreements;

"State Nominee" has the meaning given in the Porgera Acquisition Agreements, and if under the Porgera Acquisition Agreements, there is a Substitute Nominee means that Substitute Nominee.

"(2) Except where inconsistent with this Division, words and expressions defined in the Porgera Acquisition Agreements have the same meaning in this Division as in the Porgera Acquisition Agreements.

"165E. MODIFICATION OF ACT IN RELATION TO PORGERA PARTIES.

(1) The provisions of this Act, in their application to the Residual Interests held by the Sellers, the receipt by the Sellers of the Purchase Price and the distribution of the Purchase Price, are modified in accordance with this section.

"(2) The provisions of the Porgera Acquisition Agreements which govern taxation of the Sellers shall apply to the taxation of the Sellers in respect of their Residual Interests and in respect of the Purchase Price.

"(3) The provisions of the Porgera Acquisition agreements which govern taxation of Shareholders or Other Shareholders shall apply to the taxation of those persons in respect of the distribution of the Purchase Price.

"(4) Without limiting the generality of Subsections (2) and (3), the provisions of clauses 15.3(a), 15.3(b), 15.3(d) and 16.5 of the Porgera Acquisition Agreements shall have effect.

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"165F. ADDITIONAL PROFITS TAX ON SELLERS.

(1) The provisions of Subdivision III.10.D in their application to the Residual Interests in the Porgera Project held by the Sellers, are modified in accordance with this section.

"(2) For the purposes of calculating the Additional Profits Tax (if any) payable by a Seller under Subdivision III.10.D in respect of its Percentage Interest in the Porgera Project, all amounts received or derived or incurred or paid prior to the Effective Date and which but for this section would be brought to account in the calculation of "net cash receipts" as defined in Section 163Z shall be reduced by one sixth, (but the reduction thereto shall not exceed the purchase price received by the Seller) when brought to account in that calculation.

"165G. TAX ON STATE NOMINEE.

(1) This section shall apply if there is a Substituted Nominee under the Porgera Acquisition Agreements.

"(2) Notwithstanding the operation of clause 15.6 of the Porgera Acquisition Agreements, and without any requirement for delivery of a notice pursuant to Section 163AK, the State Nominee shall be deemed (for all purposes including the calculation of the Additional Profits tax (if any) payable by the State Nominee under Subdivision III.10.D of the Principal Act) to have been transferred as of the Effective Date the residual capital expenditure and residual exploration expenditure attributable to the Interest immediately prior to the Effective Date."

I hereby certify that the above is a fair print of the *Income Tax (Porgera Acquisition) Act 1995* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Income Tax (Porgera Acquisition) Act 1995* was made by the National Parliament on 6 December 1995.

Acting Speaker of the National Parliament.

