



No. 9 of 1995.

***Income Tax (Budget Provisions) Act 1995.***

Certified on : 15 MAY 1995

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No.            of 1995.

*Income Tax (Budget Provisions) Act 1995.*

**ARRANGEMENT OF SECTIONS.**

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  - "petroleum operations"
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3. Losses and outgoings (Amendment of Section 68).
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No.            of 1995.

AN ACT

entitled

*Income Tax (Budget Provisions) Act 1995,*

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

MADE by the National Parliament to be deemed to have come into operation -

- (a) in respect of Section 1(c) - on 1 January 1992; and
- (b) in respect of the remainder of the Act - on 1 January 1995.

1. **INTERPRETATION (AMENDMENT OF SECTION 4).**

- (a) by repealing the definition of "housing allowance" and replacing it with the following:-

"'housing allowance' is any allowance paid or provided to an employee, whether directly or indirectly, for the purpose of subsidising residential accommodation to be occupied by the employee;"; and

- (b) by repealing the definition of "housing expenditure" and replacing it with the following:-

"'housing expenditure' means expenditure (including rental (at arms length) in the case of rented premises) and amounts deductible by way of depreciation on the house (not being a boat) and its fittings, incurred by an employee deriving a housing allowance (which shall include, where the housing occupied by that employee is jointly owned with his or her spouse, net expenditure incurred by the spouse in respect of that housing) for the provision of housing (not being a boat) occupied by the employee as his or her sole or principal residence in Papua New Guinea and shall be an amount equal to the amount which would be deductible pursuant to the provisions of this Act, if at all times that property had been income-producing in his or her hands, provided that -

- (a) the amount deductible cannot exceed the amount of the allowance; and
- (b) prescribed expenditure of a personal nature is not deductible;"; and

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- (c) by repealing the definition of "norm price" and replacing it with the following:-

"norm price", in relation to petroleum at a point of -

- (a) entry of the petroleum into a facility which is located in Papua New Guinea for the refining of petroleum or liquefaction of natural gas; or
- (b) export of the petroleum; or
- (c) disposal or consumption of the petroleum prior to the occurrence of either Paragraph (a) or (b), means the fair market value of that petroleum at that point, being -
- (d) where the Commissioner General is satisfied that the petroleum has been sold by the taxpayer at that point at an arms' length price, the sales price; or
- (e) where Paragraph (d) does not apply, the value which the Commissioner General considers to be the fair market value of that petroleum at that point;"; and

- (d) by repealing the definition of "petroleum operations" and replacing it with the following:-

"petroleum operations" means all or any of the following:-

- (a) operations in Papua New Guinea for the purposes of recovering petroleum, including the construction or acquisition of facilities for that purpose;
- (b) operations for or related to the processing or transporting of petroleum prior to -
  - (i) entry of the petroleum into a facility which is located in Papua New Guinea for the refining of petroleum or liquefaction of natural gas; or
  - (ii) export of the petroleum,whichever occurs first;
- (c) the refining of petroleum or petroleum products where such refining is solely for the purpose of or incidental to the operations in Papua New Guinea for recovering petroleum or the construction of facilities used in those operations or where the Commissioner General considers the refining is required in order for the taxpayer to be able to conduct those operations;
- (d) exploration activities within the area of and pursuant to a development licence, but does not include exploration;".

**2. INCOME APPLICABLE (AMENDMENT OF SECTION 65E).**

Section 65E(1) of the Principal Act is repealed and is replaced with the following:-

\*(1) Subject to Sections 46B, 46C, 65F, 145 and 299E, this Division applies to income consisting of -

- (a) salary or wages; and
- (b) the value to a taxpayer of all benefits or allowances given or granted in respect of or in relation to his employment whether so given or granted in money, goods, sustenance, the use of premises, or otherwise; and

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- (c) the net amount of an annuity after the exclusion of any amount of undeducted purchase price by virtue of Section 49; and
- (d) the capital amount of any allowance, gratuity or compensation paid in a lump sum, by virtue of Section 46B,  
provided that the benefit to an employee -
- (e) subject to Section 40AA, of any air fares paid to or on his behalf by his employer or an associated person is the actual cost price of the air fares; and
- (f) of a motor vehicle or housing provided to him free of charge or at a subsidised cost shall be the prescribed value thereof; and
- (g) of a housing allowance shall be:-
  - (i) when given to him under an approved Low Cost Housing Scheme - the prescribed value thereof; or
  - (ii) when given to him in respect of housing occupied by him - the amount of housing allowance in so far as it exceeds housing expenditure and the prescribed value of that housing as if the housing was provided directly to him by the employer.
- (h) of any benefit granted outside Papua New Guinea to the employee shall be an amount equal to the cost to the employer of the benefit; and
- (i) of any meals provided by his employer or an associate of the employer shall be the prescribed value thereof.

**3. LOSSES AND OUTGOINGS (AMENDMENT OF SECTION 68).**

Sections 68(10) to 68(12) inclusive of the Principal Act are repealed and are replaced with the following:-

"(10) Subject to Subsections (11) and (12), a deduction is not allowable for a loss or outgoing otherwise allowable under this section to the extent that it is a loss or outgoing incurred after 31 December 1994 in respect (directly or indirectly) of club subscription or fees, payment for domestic services, or expenditure on electricity, gas or security relating to an employee, or provision of entertainment.

"(11) A reference in Subsection (10) to the provision of entertainment is a reference to the provision (whether to the taxpayer or to another person and whether gratuitously, pursuant to an arrangement or agreement or otherwise) of -

- (a) entertainment by way of food, drink or recreation; or
- (b) accommodation or travel in connection with, or for the purpose of facilitating, entertainment to which Paragraph (a) applies (whether or not the accommodation or travel is also in connection with something else or for another purpose),

whether or not -

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- (c) business discussions or business transactions occur; or
- (d) in connection with the working of overtime or otherwise in connection with the performance of the duties of any office or employment; or
- (e) for the purposes of promotion or advertising; or
- (f) at or in connection with a work seminar.

\*(12) Subsection (10) does not apply to a loss or outgoing incurred by the taxpayer in a year of income to the extent to which -

- (a) in a case where the taxpayer carried on a business that consists of, or includes the provision for payment of entertainment to clients or customers of that business - the loss or outgoing is in respect of the provision of that entertainment by the taxpayer for payment in the ordinary course of that business; or
- (b) the loss or outgoing is incurred by the taxpayer for the purpose of specifically promoting or advertising to the public goods or services provided by a business carried on by the taxpayer, being a loss or outgoing incurred in providing or exhibiting those goods or services; or
- (c) the loss or outgoing is in respect of entertainment provided by the taxpayer -
  - (i) for the purpose of generally promoting or advertising to the public -
    - (A) a business carried on by the taxpayer or another person; or
    - (B) goods or services provided by a business carried on by the taxpayer or another person; and
  - (ii) on the basis that the opportunities available to any of the following:-
    - (A) clients, customers or suppliers of the taxpayer or the other person;
    - (B) employees of the taxpayer or the other person;
    - (C) any other associates of the taxpayer or the other person;
    - (D) journalists;
    - (E) dignitaries;
    - (F) any other special class of persons, to obtain the benefit of the entertainment are not greater than those of ordinary members of the public; or
- (d) the loss or outgoing is incurred by the taxpayer in respect of -
  - (i) the provision of food and drink (not being food or drink provided at a party, reception or other social function) on working days in an in-house dining facility of the taxpayer -
    - (A) in any case - to employees of the taxpayer; or

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- (B) if the taxpayer is a company - to employees of the taxpayer or of a company that is related to the taxpayer, and for the purpose of this provision an "in-house dining facility" shall include any external dining facility determined by the Commissioner General to be an "in-house dining facility" having regard to the special circumstances of each case; or
- (ii) the provision of entertainment to a person (including the taxpayer) that -
  - (A) is reasonably incidental to the person's attendance at a work seminar (held between 8am to 5pm on working days); and
  - (B) is not by way of, or in connection with, the recreation of the person; or
- (iii) the provision of food or drink to an employee of the taxpayer pursuant to the provisions of an industrial instrument or award relating to overtime; or
- (e) the loss or outgoing is incurred by the taxpayer in providing gratuitous entertainment to members of the public who are sick, disabled, poor or otherwise disadvantaged; or
- (f) the loss or outgoing is incurred by the taxpayer in providing entertainment in ordinary course of his or her business for a purpose or activity prescribed by the Commissioner General from time to time."

**4. INTERPRETATION (AMENDMENT OF SECTION 163ZD).**

Section 163ZD of the Principal Act is amended:-

- (a) by repealing the definition of "associated development licence"; and
- (b) by inserting after the definition of "petroleum information" the following new definition:-
  - "'petroleum project' has the meaning ascribed to it in Section 164AA;"; and
- (c) in the definition of "petroleum right", by adding the following new Paragraph:-
  - "(c) a pipeline licence."; and
- (d) by inserting after the definition of "allowable exploration expenditure" the following new definitions:-

"'Coordinated Development Agreement' means an agreement between the licensees of two or more development licences which provides for the coordinated development of one or more petroleum pools underlying such development licences, and includes an agreement of the type referred to in Section 43 of the *Petroleum Act* (Chapter 198);

'Coordinated Development Participant' means the holder of a development licence who is a party to a Coordinated Development Agreement in respect thereof;

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"redetermination" means a determination or redetermination pursuant to a Coordinated Development Agreement of the rights and obligations of a Coordinated Development Participant as to the costs of petroleum operations in respect of the petroleum pools to which that Coordinated Development Agreement relates or production of petroleum therefrom or both;"

**5. INTERPRETATION (AMENDMENT OF SECTION 164).**

Section 164 of the Principal Act is amended -

(a) in Subsection (1) -

(i) in the definition of "accumulated liability" by repealing the words "in an area the subject of a development licence" and replacing them with the following:-

"as part of a petroleum project"; and

(ii) by repealing the definition of "commencement of commercial operations" and replacing it with the following:-

"'date of commencement of commercial operation' in relation to a petroleum project means the date on which, in the opinion of the Departmental Head of the Department responsible for petroleum matters, the commercial operation of the petroleum project (being more than merely incidental to the development of the project) commenced;"  
and

(iii) in the definition of "debt", by adding after the word "taxpayer" where it last occurs in the definition the following:-

"or any indebtedness owed by the taxpayer pursuant to a Coordinated Development Agreement to another Coordinated Development Participant in consequence of a redetermination"; and

(iv) by repealing the definition of "the initial capital investment of the taxpayer", and replacing it with the following:-

"'the initial capital investment attributable to the taxpayer's interest' in relation to a particular petroleum project means the sum S whereby:

$$S = A + B + C$$

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where

A is the allowable exploration expenditure incurred before the end of the year of income in which the date of commencement of commercial operation of the petroleum project occurs; and

B is the allowable capital expenditure incurred -

- (i) before the end of the year of income in which the date of commencement of commercial operation of the petroleum project occurs; or
- (ii) in any subsequent year of income prior to the end of the investment recovery period to the extent that such expenditure has been incurred pursuant to approved proposals under a petroleum development licence or pipeline licence which proposals were current as at the date of commencement of commercial operation of the petroleum project; or
- (iii) in the development drilling programme implemented for the petroleum project as it was envisaged as at the date of commencement of commercial operation; and

C is the cost of plant or articles in respect of which an election was made under Section 164T, where the plant or articles -

- (i) were acquired before the end of the year of income in which the date of commencement of commercial operation of the petroleum project occurs; and
- (ii) were used in petroleum operations which were part of the petroleum project,

and which costs or expenditures in each instance A, B or C are attributable to the interest flow held by the taxpayer in the petroleum project, irrespective of by whom they were incurred."; and

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- (v) by repealing the definition of "investment recovery period", and replacing it with the following:-

"'investment recovery period' in relation to a taxpayer means the period commencing with the year of income in which the date of commencement of commercial operation of the petroleum project occurred and ending at the expiration of the year of income in which a sum "S" first exceeds the amount of the initial capital investment attributable to the taxpayer's interest; and whereby -

$$S = A + B + C - D$$

where

- A is the total of the taxable income from petroleum operations derived by any person in respect of the interest in the petroleum project now held by the taxpayer; and
- B is the sum of all deductions allowable under this Subdivision that relate to such taxable income from petroleum operations; and
- C is the sum of all deductions allowable under Section 73 that relate to expenditure on plant or articles in respect of which elections were made under Section 164T and which relate to such taxable income from petroleum operations; and
- D is the sum of the amounts of petroleum income tax paid or payable in respect of such taxable income from petroleum operations."; and
- (b) in Subsection (2), by repealing the words "development licence or each prospecting licence, as the case may be" and replacing them with the following:-

"petroleum project"; and

- (c) in Subsection (3) -
- (i) in the preamble, by repealing the words "development licence or each prospecting licence, as the case may be" and replacing them with the following:-

"petroleum project"; and

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- (ii) in Paragraph (a), by repealing the words "development licence on which the taxpayer carries on petroleum operations or other prospecting area in which the taxpayer carried on exploration, as the case may be," and replacing them with the following:-

"petroleum project"; and

- (iii) in Paragraph (b), by repealing the words "operations on two or more of the development licences on which the taxpayer carried on petroleum operations" and replacing them with the following:-

"petroleum operations in more than one petroleum project".

**6. PROJECT BASIS OF ASSESSMENT (AMENDMENT OF SECTION 164AA).**

Sections 164AA(1) and (1A) of the Principal Act are repealed and are replaced with the following:-

"(1) Subject to this section, in this Subdivision 'petroleum project' means -

(a) where a Regulation so prescribes, those petroleum operations and the costs and expenses and revenues from the construction and operation of all facilities used in those petroleum operations which are prescribed to constitute a petroleum project but excludes any particular operations or facilities or use thereof or costs or expenses or revenues which are prescribed to be excluded from that petroleum project; and

(b) in cases to which Paragraph (a) does not apply, petroleum operations conducted pursuant to a development licence or a pipeline licence, as the case may be, and shall include the costs and expenses and revenues from the construction and operation of all facilities used in those petroleum operations.

"(1A) A petroleum project to which Subsection (1)(b) applies shall only include those operations which are attributable to one development licence or pipeline licence as the case may be.

"(1B) A petroleum project referred to in Subsection (1)(a) may include petroleum operations pursuant to any number of development licences or pipeline licences or both.

"(1C) A Regulation made under Subsection (1)(a) or an amendment thereto shall only be made with the consent of the licensees of the development licence or pipeline licence to which the regulation pertains."

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**7. REPEAL AND REPLACEMENT OF SECTION 164AB.**

Section 164AB of the Principal Act is repealed and replaced with the following:-

**"164AB. ALLOWABLE EXPLORATION EXPENDITURE.**

For the purpose of the application of this Subdivision in relation to a taxpayer, a reference to allowable exploration expenditure in relation to a petroleum project is a reference to -

- (a) so much of the allowable exploration expenditure of the taxpayer as was incurred prior to the date of issue of a development licence to which the petroleum project pertains pursuant to the prospecting licence from which the development licence was drawn, or expenditure which is allocated to that prospecting licence pursuant to Section 164E(2); and
- (b) expenditure of the taxpayer which is allocated to a development licence to which the petroleum project pertains under Subsections 164E(2A) or 164F(3); and
- (c) expenditure which is incurred prior to the date of a development licence to which the petroleum project pertains but after 1 January 1990 by the taxpayer for exploration activities, wherever carried out, which are certified (and to the extent to which they are so certified) by the Departmental Head of the Department responsible for petroleum exploration to be for the purpose of delineating a petroleum deposit in the prospecting licence from which that development licence is drawn (but excluding expenditure incurred in acquiring an interest in the relevant prospecting licence or development licence); and
- (d) expenditure which is incurred prior to the date of issue of a development licence to which the petroleum project pertains by the taxpayer for exploration activities in a prospecting licence or development licence adjacent to the prospecting licence from which that development licence is drawn where the exploration activities are for the purpose of proving or disproving the existence of a commercially exploitable petroleum pool which might be developed in a coordinated development with a petroleum pool or pools wholly or partly underlying the said prospecting licence (but excluding expenditure incurred in acquiring an interest in the adjacent prospecting licence or development licence)."

**8. ALLOWABLE CAPITAL EXPENDITURE (AMENDMENT OF SECTION 164A).**

Section 164A(2) of the Principal Act is amended -

- (a) in the preamble, by inserting after the word "including" the following:-

"(to the extent that such expenditure relates to the petroleum project in question)"; and

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(b) by inserting after Paragraph (c) the following new paragraphs:-

"(ca) expenditure which is incurred after 1 January 1990 by the taxpayer for exploration activities, wherever carried out, which are certified (and to the extent to which they are so certified) by the Departmental Head of the Department responsible for petroleum exploration to be for the purpose of delineating a petroleum deposit within the development licence included in the petroleum project (but excluding expenditure incurred in acquiring an interest in a prospecting licence or a development licence); and

(cb) expenditure which is incurred by the taxpayer for exploration activities in a prospecting licence or development licence adjacent to a development licence included in the petroleum project where the exploration activities are certified (and to the extent to which they are so certified) by the Departmental Head of the Department responsible for petroleum exploration to be for the purpose of proving or disproving the existence of a commercially exploitable petroleum pool which might be developed in a coordinated development with a petroleum pool or pools wholly or partly underlying the development licence included in the petroleum project (but excluding expenditure incurred in acquiring an interest in a prospecting licence or development licence)."; and

(c) by repealing Subparagraph (b)(i) and replacing it with the following:-

"(i) the feasibility of developing facilities for use in relation to the petroleum project; or".

**9. ADJUSTMENT OF DEDUCTIONS ON DISPOSAL OF RIGHTS OR INFORMATION (AMENDMENT OF SECTION 164B).**

Section 164B of the Principal Act is amended -

(a) in Subsection (3), by repealing the words ", in relation" (wherever occurring) after the expression "or prospecting licence" and replacing them with the following:-

"or pipeline licence pursuant"; and

(b) in Subsection (9), by repealing the words "the operations in the area of a development licence" (wherever occurring) and replacing them with the following:-

"a petroleum project".

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10. DEDUCTIONS FOR RESIDUAL CAPITAL EXPENDITURE (AMENDMENT OF SECTION 164D).  
Section 164D of the Principal Act is amended -

- (a) in Subsection (1), by repealing the words "development licence" and replacing them with the following:-

"petroleum project"; and

- (b) by repealing Subsection (3) and replacing it with the following:-

"(3) Subject to Subsections (3A), (4) and (5), where the income from the petroleum project is primarily dependent on the production of petroleum from a field or fields the production from which was the principal reason for the establishment of the petroleum project, the amount of the allowable deduction is the amount ascertained by dividing the amount of residual capital expenditure by -

- (a) a number equal to the number of whole years in the estimated life of production of petroleum from that field or those fields as at the end of the year of income; or

(b) eight,  
whichever number is less."; and

- (c) by inserting after Subsection (3), the following Subsection:

"(3A) Subject to Subsections (4) and (5), where the income from the petroleum project is no longer primarily dependent on the production of petroleum from a field or fields the production from which was the principal reason for the establishment of the petroleum project, or where production from a particular field or fields is not the principal reason for the establishment of the project, the amount of the allowable deduction is the amount ascertained by applying the following formula:-

$$D = \frac{A \times B}{A + C}$$

where:

D is the allowable deduction in the year of income in question: and

A is the assessable income from petroleum operations of the taxpayer from the petroleum project in the year of income in question: and

B is the residual capital expenditure; and

C is the estimated assessable income from petroleum operations which the taxpayer will derive from the project in all years after the year of income in question excluding the last year of income in which it is estimated that income will be derived from the petroleum project."; and

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- (d) in Subsection (5), by repealing the words "a development licence" and replacing them with the following:-

"a particular field or fields in the petroleum project".

**11. ALLOWABLE EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 164E).**

Section 164E(5) of the Principal Act is amended by repealing the words "development licence" and "licence" (wherever occurring) and replacing them with the following:-

"petroleum right".

**12. RESIDUAL EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 164F).**

Section 164F(2)(b) of the Principal Act is amended by repealing the words "Petroleum Development Licence" (wherever occurring) and replacing them with the following:-

"petroleum project".

**13. DEDUCTION FOR RESIDUAL EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 164G).**

Section 164G of the Principal Act is amended -

- (a) in Subsection (1), by repealing the words "development licence" and replacing them with the following:-

"petroleum project"; and

- (b) by repealing Subsection (3) and replacing it with the following:-

"(3) Subject to Subsections (3A) and (4) and to Section 164D(5), where the income from the petroleum project is primarily dependent on the production of petroleum from a field or fields the production from which was the the principal reason for the establishment of the petroleum project, the amount of the allowable deduction is the amount ascertained by dividing the amount of residual capital expenditure by -

- (a) a number equal to the number of whole years in the estimated life of production of the petroleum from that field or those fields as at the end of the year of income; or

(b) four,  
whichever number is less."; and

- (c) by inserting after Subsection (3), the following Subsection:-

"(3A) Subject to Subsection (4) and to Section 164D(5), where the income from the petroleum project is no longer primarily dependent on the production of petroleum from a field or fields the production from which was the principal reason for the establishment of the petroleum project, or where production from a particular field or fields is not the principal reason for the establishment of the project, the amount of the allowable deduction is the amount ascertained by applying the following formula:-

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$$D = \frac{A \times B}{A + C}$$

where:

- D is the allowable deduction in the year of income in question; and
- A is the assessable income from petroleum operations of the taxpayer from the petroleum project in the year of income in question; and
- B is the residual exploration expenditure; and
- C is the estimated assessable income from petroleum operations which the taxpayer will derive from the project in all years after the year of income in question excluding the last year of income in which it is estimated that income will be derived from the petroleum project."

**14. ACCELERATED DEDUCTIONS (AMENDMENT OF SECTION 164H).**

Section 164H of the Principal Act is amended:-

(a) in Subsection (1) -

- (i) in the preamble, by repealing the words "development licence", and replacing them with the following:-

"petroleum project"; and

- (ii) by repealing the definition of "date of commencement of commercial production"; and

- (iii) by repealing the definition of "target income" and replacing it with the following:-

"target income" means the amount that equals 25% of the initial capital investment attributable to the taxpayer's interest in the petroleum project or, in respect of the year of income during which commercial production from the petroleum project first commences, that proportion of that amount as the number of days of that year of income after the date of commencement of commercial operation bears to 365."; and

(b) in Subsection (2) -

- (i) in the preamble, by repealing the words "a development licence" and replacing them with the following:-

"the taxpayer's interest in the petroleum project"; and

- (ii) in Paragraphs (a), (b), (c) and (f), by repealing the words "development licence" (wherever occurring), and replacing them with the following:-

"petroleum project"; and

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(iii) in Paragraph (d), by repealing the words "on that licence" and replacing them with the following:-

"as part of that petroleum project"; and

(c) in Subsection (4), by repealing the words "development licence" (wherever occurring) and replacing them with the following:-

"petroleum project".

**15. PROSPECTING OR MINING BY CONTRACTORS (AMENDMENT OF SECTION 164J).**

Section 164J of the Principal Act is amended -

(a) in Subsection (1) -

(i) in the preamble, by repealing the words "the holder of a prospecting or development licence" and replacing them with the following:-

"a taxpayer carrying on petroleum operations as part of a petroleum project or exploration pursuant to a prospecting licence"; and

(ii) in Paragraph (b), by repealing the words "prospecting or development licence" and replacing them with the following:-

"petroleum right"; and

(b) in Subsection (2) -

(i) in the preamble, by repealing the words "the subject of a development licence" and replacing them with the following:-

"to which a petroleum project relates"; and

(ii) in Paragraph (c), by repealing the words "the area" and replacing them with the following:-

"the course of that petroleum project".

**16. TRANSACTIONS NOT AT ARMS LENGTH (AMENDMENT OF SECTION 164K).**

Section 164K(2) of the Principal Act is amended by repealing the words "petroleum licence" (wherever occurring) and replacing them with the following:-

"petroleum right".

**17. NEW SECTION 164RA.**

The Principal Act is amended by inserting after Section 164R the following new section:-

**"164RA. ADJUSTMENTS PURSUANT TO REDETERMINATIONS.**

(1) Notwithstanding the provisions of Divisions 3 and 10A of Part III of this Act, where, pursuant to a redetermination, a Coordinated Development Participant (in this section called the

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"compensatee") is entitled to receive compensation (whether in cash or kind or by way of change in lifting entitlements or by any other method) from one or more other Coordinated Development Participants (in this section called the "compensator") due to the compensatee having incurred more allowable exploration expenditure or allowable capital expenditure or expenditure which would have been allowable capital expenditure but for an election pursuant to Section 164T or operating expenses of the petroleum project or having derived less petroleum or income than the compensatee should have according to the results of the redetermination -

(a) where the compensation is made otherwise than by way of adjustment to lifting entitlements, to the extent -

- (i) that it is compensation for allowable exploration expenditure - the allowable exploration expenditure and residual exploration expenditure of the compensator shall be increased by the amount of the compensation and the allowable exploration expenditure and residual exploration expenditure of the compensatee shall be reduced by the amount of the compensation; and to the extent that the amount of the compensation exceeds the residual exploration expenditure of the compensatee - the amount of such excess shall be assessable income from petroleum operations of the compensatee; and
- (ii) that it is compensation for allowable capital expenditure or expenditure which would have been allowable capital expenditure but for an election pursuant to Section 164T and to the extent -
  - (A) that the compensation relates to plant or articles in respect of expenditure on which the compensator has made a prior election under Section 164T - the cost and depreciated value of such plant and articles of the compensator shall be increased accordingly; and
  - (B) that it does not so relate - the allowable capital expenditure and residual capital expenditure of the compensator shall be increased accordingly; and
  - (C) that the compensation relates to plant or articles in respect of expenditure on which the compensatee has made a prior election under Section 164T - the cost and depreciated value of such plant and articles of the compensatee shall be reduced accordingly, and to the extent that the amount of that compensation exceeds the depreciated value of such

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- plant and articles - the amount of such excess shall be assessable income from petroleum operations of the compensatee; and
- (D) that it does not so relate - the allowable capital expenditure and residual capital expenditure of the compensatee shall be reduced by the amount of the compensation; and to the extent that the amount of that compensation exceeds the sum of the residual capital expenditure of the compensatee - the amount of such excess shall be assessable income from petroleum operations of the compensatee; and
- (iii) that it is compensation for operating expenses - the amount of the compensation shall be assessable income from petroleum operations of the compensatee and shall be a deduction from the assessable income from petroleum operations of the compensator; and
- (iv) that it is compensation for petroleum or income not derived by the compensatee - the amount of the compensation shall be assessable income from petroleum operations of the compensatee and shall be a deduction from the assessable income from petroleum operations of the compensator; and
- (v) that it represents interest - the amount of the compensation shall be assessable income from petroleum operations of the compensatee and shall be a deduction from the assessable income from petroleum operations of the compensator; and
- (b) where the compensation is by way of adjustment to lifting entitlements -
- (i) then to the extent that it is compensation for allowable exploration or allowable capital expenditure or expenditure which would have been allowable capital expenditure but for an election pursuant to Section 164T - the provisions of subparagraphs (1)(a)(i) and (ii) shall apply as though the value of the compensation is a payment, and in addition that value shall be assessable income from petroleum operations of the compensator and a deduction from assessable income from petroleum operations of the compensatee; and

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(ii) to any other extent Paragraph (a) shall not apply.

"(2) Where compensation referred to in Subsection (1)(a) is made by way of delivery of petroleum, the compensator shall be deemed to have sold and the compensatee shall be deemed to have purchased the petroleum so delivered.

"(3) A Coordinated Development Participant who gives or receives compensation as described in Subsection (1) shall give notice thereof to the Commissioner General.

"(4) Where the compensation is by way of adjustment to lifting entitlements, all parties to the redetermination may by written notice to the Commissioner General signed by each of them elect that Subsection (1)(b) shall not apply.

"(5) A notice under Subsections (3) or (4) shall be given to the Commissioner General not later than two months after the end of the year of income in which such payment or adjustment first has effect, or within such further period as the Commissioner General may otherwise allow.

"(6) Where Subsection (1)(a) or (b)(i) applies, the compensation shall be deemed to be given and received on the date on which the amount thereof is determined.

"(7) A redetermination shall be deemed not to give rise to dispositions of property for the purposes of this Act."

**18. RESTRICTION OF INTEREST DEDUCTION (AMENDMENT OF SECTION 164S).**

Section 164S(3) of the Principal Act is amended by inserting after Paragraph (b) the following paragraph:-

"(c) the calculation of Total Interest in Paragraph (a) shall not include any interest payable pursuant to a Coordinated Development Agreement as a result of a redetermination, and this subsection shall not operate to prevent any such interest being a deduction from the assessable income from petroleum operations of the payer."

**19. ALLOWABLE EXPLORATION EXPENDITURE (AMENDMENT OF SECTION 164U).**

Section 164U(6) of the Principal Act is amended by repealing the words "more than one development licence", and replacing them with the following:-

"interests in more than one petroleum project".

**20. INTERPRETATION (AMENDMENTS OF SECTION 165).**

Section 165 of the Principal Act is amended -

(a) by repealing the definition of "net cash receipts" and replacing it with the following:-

"net cash receipts' in relation to a petroleum project and to a year of income, means the result (which may be a negative amount) in the year of income that is the sum of -

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- (a) assessable income from petroleum operations derived by the taxpayer in the year of income from the petroleum project, other than interest on money lent by him (except as provided by Paragraph (b)), in the course of carrying out those petroleum operations; and
- (b) the proceeds received by the taxpayer in the year of income from the sale of petroleum which the State has agreed to forego in favour of the taxpayer to meet the State's accumulated liability (including related interest) to the taxpayer under an agreement between the State and the taxpayer relating to petroleum operations carried out by the taxpayer as part of the petroleum project; and
- (c) amounts received, by way of contribution towards the cost, by the taxpayer in the year of income for the use of facilities provided by the taxpayer that are connected with the petroleum operations carried out as part of the petroleum project, other than any such amount that has been included in the amount referred to in Paragraph (a); and
- (ca) any amount referred to in Section 164RA which is paid to the taxpayer and which is not otherwise included as an addition to the net cash receipts of the taxpayer; and
- (d) the proceeds of the sale by the taxpayer of -
  - (i) plant or articles in respect of which the taxpayer made an election under Section 164T; or
  - (ii) a petroleum right which forms part of the petroleum project or from which any development licence which forms part of the petroleum project was drawn; or
  - (iii) any petroleum information that related to the petroleum project or to any prospecting licence from which any development licence which forms part of the petroleum project was drawn; or
  - (iv) works or facilities to the State, less any amount that has been included in the amount referred to in Paragraph (a),as reduced by the sum of -

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- (e) all deductions allowable under this Act (other than deductions allowable under Section 73 or 101, or under Subdivision B, or for interest payable on moneys borrowed other than interest paid or payable in respect of so much of the indebtedness of the taxpayer as exists to fund the State's accumulated liability to the taxpayer) that relate to moneys paid by the taxpayer in the year of income and incurred in carrying on petroleum operations as part of the petroleum project; and
- (f) allowable capital expenditure, being moneys paid by the taxpayer in the year of income incurred in carrying on petroleum operations as part of the petroleum project; and
- (g) allowable exploration expenditure of the petroleum project incurred in the year of income by the taxpayer; and
- (h) moneys paid in the year of income by the taxpayer for plant or articles in respect of which the taxpayer made an election under Section 164T, used by the taxpayer in carrying on petroleum operations as part of the petroleum project; and
- (i) expenditure of a nature to which Paragraphs (e), (f), (g) and (h) apply, incurred by the taxpayer on behalf of the State, equal to the accumulated liability (if any) of the State (including related interest) to the taxpayer under an agreement between the State and the taxpayer relating to petroleum operations carried on by the taxpayer as part of the petroleum project; and
- (j) petroleum income tax (other than income tax deemed to have been paid under Section 219C) paid during the year of income by the taxpayer in respect of his taxable income from petroleum operations derived from the petroleum project; and
- (ja) any amount referred to in Section 164RA which is paid by the taxpayer and which is not otherwise included as a reduction to the net cash receipts of the taxpayer; and
- (k) approved expenditure on prescribed infrastructure projects under the provision of Section 219C;" and

(b) by repealing Subsection (2) and replacing it with the following:-

"(2) Where a taxpayer carries on petroleum operations as part of two or more petroleum projects, this Subdivision applies, except to the extent to which a contrary intention appears, in relation to the operations of the taxpayer on and in connection

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with each of the petroleum projects as if it were the only petroleum project under which the taxpayer carried on petroleum operations."; and

(c) in Subsection (3) -

(i) in the preamble, by repealing the words "development licence" and replacing them with the following:-

"petroleum project"; and

(ii) in Paragraph (a), by repealing the words "development licence on which the taxpayer carried on petroleum operations" and replacing them with the following:-

"petroleum project"; and

(iii) in Paragraph (b), by repealing the words "of the development licence on which the taxpayer carried on petroleum operations" and replacing them with the following:-

"petroleum projects".

**21. ACCUMULATED VALUE OF NET CASH RECEIPTS (AMENDMENT OF SECTION 165A).**

Section 165A of the Principal Act is amended -

(a) in Subsection (1), by inserting after the words "respectively apply to" (wherever occurring), the following:-

"petroleum projects which include"; and

(b) in Subsection (2), by repealing the words "on a development licence" and replacing them with the following:-

"as part of a petroleum project"; and

(c) in Subsection (4), by repealing the words "on a development licence" and replacing them with the words "as part of a petroleum project", and further deleting the words "development licence" where appearing in subparagraphs (a)(i) and (ii) and substituting therefor the words "petroleum project"; and

(d) in Subsection 165A(5), by repealing the words "development licence" and replacing them with the following:-

"petroleum project".

**22. ASSESSMENT OF TAXABLE ADDITIONAL PROFITS (AMENDMENT OF SECTION 165B).**

Section 165B of the Principal Act is amended by repealing the words "development licence" and "licence", and replacing them respectively with the following:-

"petroleum project".

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23. LIABILITY FOR ADDITIONAL PROFITS TAX (AMENDMENT OF SECTION 165C).

Section 165C of the Principal Act is amended by repealing the words "petroleum operations" and replacing them with the following:-

"a petroleum project".

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

Clerk of the National Parliament.

I hereby certify that the *Income Tax (Budget Provisions) Act* 1995 was made by the National Parliament on 16 March 1995.

Speaker of the National Parliament.