



WESTERN SAMOA

ANALYSIS

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1978, No. 14

AN ACT to amend the Income Tax Act 1974.

[16 August 1978]

BE IT ENACTED by the Legislative Assembly of Western Samoa in Parliament assembled as follows—

1. **Short title**—This Act may be cited as the Income Tax Amendment Act 1978 and shall be read together with and deemed part of the Income Tax Act 1974* (hereinafter referred to as the principal Act).

2. **Commencement**—This Act shall be deemed to have come into force on the 1st day of January 1978.

3. **Exempt income**—Section 7 of the principal Act is amended in subsection (1) by inserting after paragraph (v) the following paragraphs—

- (w) Interest on loans from a non-resident which, in the opinion of the Minister of Finance, are obtained and applied for the economic benefit of Western Samoa;
- (x) Grants and any other payments or benefits made available to an enterprise under the Pacific Islands Industrial Development Scheme of the New Zealand Government—
- (y) Income derived by a non-resident from the operation of shipping or air services provided the Minister is satisfied that an equivalent exemption from income tax is granted to persons resident in Western Samoa carrying on a similar business, by the country in which such non-resident resides:

For the purposes of this paragraph, a company shall be

deemed to be resident only in that country in which the central management and control of its business is situated.

4. Insurance companies—Section 34 of the principal Act is repealed and the following section is substituted—

34. Insurance companies—(1) The taxable income derived by an insurer from the business of insurance in Western Samoa, shall be calculated in accordance with this section—

Provided that nothing in this section shall apply to—

- (a) Dividends received by an insurer; or
- (b) The business of a resident insurer in so far as it relates to any insurance business other than life insurance or, except as provided in subsection (7), reinsurance.

(2) Where an insurer carries on life insurance business in conjunction with insurance business of any other class, the life insurance business of the insurer shall be treated as a separate class of business from any other class of insurance business carried on by the insurer.

(3) The amount of gross premiums derived by a non resident insurer in respect of life insurance business transacted in Western Samoa shall be deemed to be the taxable income derived by the life insurer from the business of insurance in Western Samoa and the insurer shall be assessable and liable for income tax thereon at the rate set out in the Income Tax Rate Act 1974—

Provided that the amount of such gross premiums retained by the insurer in Western Samoa and invested in investments in Western Samoa approved in writing by the Minister, or in a class of investments in Western Samoa approved in writing by the Minister, shall be assessable and liable for income tax thereon at two-thirds of that rate.

(4) The amount of income derived from investment of life insurance funds shall be deemed to be the taxable income derived by a resident life insurer from the business of insurance in Western Samoa and the insurer shall be assessable and liable for income tax thereon at the rate set out in the Income Tax Rate Act 1974.

(5) The amount of gross premiums [except premiums in respect of life insurance policies] derived by a non-resident insurer in respect of business transacted in Western Samoa other than from the business of reinsurance shall be deemed to be the taxable income derived by the insurer from the business of insurance [other than life insurance business] in Western Samoa and the insurer shall be assessable and liable for income tax thereon at the rate set out in the Income Tax Rate Act 1974—

Provided that the amount of such gross premiums retained by the insurer in Western Samoa and invested in investments in Western Samoa approved in writing by the Minister, or in a class of investments in Western Samoa approved in writing by the Minister, shall be assessable and liable for income tax thereon at two-thirds of that rate.

(6) The amount of gross premiums derived by a non-resident insurer in respect of reinsurances from insurance business transacted in Western Samoa shall be deemed to be the taxable income derived by the insurer from the business of reinsurance and the insurer shall be assessable and liable for income tax thereon at the rate set out in the Income Tax Rate Act 1974.

(7) The amount of gross premiums derived from countries outside Western Samoa by a resident insurer who is engaged solely in the business of reinsurance shall be deemed to be the taxable income derived by the insurer from the business of reinsurance in Western Samoa and the insurer shall be assessable and liable for income tax thereon at the rate set out in the Income Tax Rate Act 1974.

(8) If any question arises as to the application of the proviso to subsection (3) or of the proviso to subsection (5) of this section, that question shall be determined by the Minister after considering the recommendation of the Commissioner.

(9) For the purposes of this section—

“Business transacted in Western Samoa” shall be deemed to include every instance where any person in Western Samoa enters into a contract of insurance or guarantee against loss, damage, or risk of any kind whatsoever—

“Insurer” means a person whose principal business is the business of insurance or guarantee against loss, damage or risk of any kind whatsoever—

“Life insurance” includes the granting of annuities on human life.

5. Overseas freight and passage moneys—Section 38 of the principal Act is amended—

- (a) By recalling in subsection [1] the words “and air”;
- (b) By repealing in subsection [2] the words “or aircraft” and the words “or air”—
- (c) By repealing in subsection [3] the words “or aircraft” wherever they occur.

6. Liability for income tax on withholding income—Section 40 of the principal Act is amended by inserting in paragraph (b) of subsection (1) after “interest”, the words “other than interest exempted from tax under section 7 (1)(w) of this Act”.