



REPUBLIC OF NAURU

**REVENUE ADMINISTRATION (AMENDMENT)
NO. 3 ACT 2016**

No. 50 of 2016

An Act to amend the Revenue Administration Act 2014

Certified: 4th November 2016

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Revenue Administration (Amendment) No. 3 Act 2016*.

2 Commencement

This Act commences upon certification by the Speaker.

3 Amendment of Revenue Administration Act 2014

The Revenue Administration Act 2014 is amended by the provisions of this Act.

4 Amendment of section 3

Section 3 is amended by:

- (a) omitting the current definition of **'Revenue Office'** and substituting with the following:

'Revenue Office' means the Nauru Revenue Office established within the Ministry of Finance;

- (b) inserting the words 'and includes a monthly summary required to be filed under section 6(2) of the Telecommunications Service Tax Act 2009' at the end of the definition of **'self-assessment return'**;

- (c) inserting the words 'other than a self-assessment' at the end of paragraph (a) of the definition of **'tax decision'**;

- (d) omitting the current definition of **'tax return'** and substituting with the following:

'tax return' means a return required to be filed under a tax law and includes the following:

- (a) an annual withholding tax summary required to be filed under section 25 of the *Employment and Services Tax Act 2014* or section 44 of the *Business Tax Act 2016*;
- (b) a monthly summary required to be filed under section 6(2) of the *Telecommunications Service Tax Act 2009*.

5 Amendment of section 9

Section 9 is amended by omitting the current subsection (1) and substituting with the following:

- (1) The following persons must apply to the Secretary for a taxpayer identification number ("TIN") unless the person has already been issued with a TIN:
 - (a) every resident person within the meaning in paragraph (b) of the definition of '**resident person**' in section 3 of the Business Tax Act;
 - (b) any other person who becomes liable for tax under a tax law.

6 Amendment of section 28

Section 28 is amended by inserting a new subsection (11) as follows:

- (11) The rate of interest imposed under section 10 of the *Telecommunications Service Tax Act 2009* in respect of a default in payment of telecommunications service tax applies in priority to the rate of late payment interest imposed under this section.

7 Amendment of section 37

- (1) Section 37(4) is amended by omitting paragraph (c) and substituting with the following paragraph:
 - (c) subject to subsection (5), then refund the remainder, if any, to the taxpayer within 45 days of service of the notice under subsection (3).
- (2) A new subsection (5) is inserted as follows:
 - (5) With the written agreement of the taxpayer, an amount referred to in subsection (4)(c) may be carried forward for the payment of any future tax liability of the taxpayer under any tax law.

8 Amendment of section 46

Section 46 is amended by inserting a new subsection (8) as follows:

- (8) Section 6(4) of the *Telecommunications Service Tax Act 2009* applies to the exercise of power under this section by a tax officer for the purposes of that Act.

9 Amendment of section 59

Section 59 is amended by inserting a new subsection (4) as follows:

- (4) The offences and penalties in Part IV of the *Telecommunications Service Tax Act 2009* apply in priority to any equivalent offence and penalty under this Part.

10 Amendment of section 61

- (1) Section 61(1) is amended by omitting 'subsection (2)' and substituting it with 'subsections (2) and (3)'.
 - (2) A new subsection (3) is inserted as follows:
 - (3) A taxpayer who fails to keep, retain, or maintain documents as required under Regulation 10 of the Business Tax (Transfer Pricing) Regulations is liable for a penalty not exceeding \$100,000.

11 Insert new section 66A

A new section 66A is inserted after section 66 as follows:

66A Tax instalment penalty

- (1) This section applies when the following conditions are satisfied:
 - (a) a taxpayer has applied to the Secretary under section 41(3A) of the Business Tax Act 2016 for a variation of the instalments of tax by the taxpayer for a tax year;
 - (b) the Secretary has agreed to vary the instalments of tax payable by the taxpayer for the year;
 - (c) the actual business profits tax payable by the taxpayer for the year exceeds the total instalments payable by the taxpayer for the year by more than 20% (the difference being referred to as the "tax shortfall").
- (2) When this section applies, the taxpayer shall be liable for a penalty equal to 10% of the tax shortfall.

12 Amendment of Schedule 2

Schedule 2 is amended by inserting the words '*Telecommunications Service Tax Act 2009*' after the words '*Business Tax Act 2016*'.