



REPUBLIC OF NAURU

# REVENUE ADMINISTRATION (AMENDMENT) NO. 2 ACT 2016

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No. 32 of 2016

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An Act to amend the *Revenue Administration Act 2014*

Certified: 9<sup>th</sup> June 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. 2 Act 2016*.

**2 Commencement**

This Act commences on 1 July 2016.

**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 as follows:

- (1) insert the following definition after the definition of **‘authorised officer’**:

**‘business profits tax’** means business profits tax imposed under the *Business Tax Act 2016*;

- (2) omit the current definition of **‘tax return’** and substitute with the following:

**‘tax return’** means a return required to be filed under a tax law and includes 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*;

**5 Amendment of section 18**

Immediately after subsection (1), insert a new subsection (1A) as follows:

- (1A) When a self-assessment taxpayer liable for business profits tax has filed a self-assessment return in the approved form for a tax year and the taxpayer has a net loss for the year, the taxpayer shall be treated, for all purposes of this Act, as having made an assessment of the amount of the net loss being that amount as set out in the return.

**6 Amendment of section 19**

- (1) Omit current section 19(1) and substitute the following:

- (1) When a taxpayer has failed to file a tax return for a reporting period as required under a tax law, the Secretary may, based

on such evidence as may be available and to the best of his or her judgement, make an assessment (referred to as a “default assessment”) of:

- (a) in the case of a net loss under the business profits tax for a reporting period, the amount of the net loss for the reporting period; or
- (b) in any other case, the amount of tax payable (including a nil amount) for the reporting period.

(2) Section 19(2) (a) is amended by inserting after the word ‘assessed’, the words ‘or net loss carried forward’.

## **7 Amendment of section 21**

(1) Section 21(1) is omitted and substituted with the following:

(1) Subject to this section, the Secretary may amend an assessment (referred to in this section as the “original assessment”) by making such alterations or additions, based on such evidence as may be available and to the best of his or her judgement, to the original assessment of a taxpayer for a reporting period to ensure that:

- (a) in the case of a net loss under the business profits tax, the taxpayer is assessed in respect of the correct amount of the net loss for the reporting period; or
- (b) in the other case, the taxpayer is liable for the correct amount of tax payable (including a nil amount) in respect of the reporting period.

(2) Section 21(8) (a) is amended by inserting after the word ‘assessed’, the words ‘or net loss carried forward’.

## **8 Amendment of section 37**

Section 37(4) is amended by inserting after (b), a new subsection (ba) as follows:

(ba) then, with the written agreement of the taxpayer, applied as a credit against any tax that will become payable by the taxpayer;

## **9 Amendment of section 46A**

Section 46A(2) is amended by omitting the current subsection and replacing with the following:

- (2) If there is any conflict between the terms of an administrative assistance agreement having legal effect in Nauru and any law, the administrative assistance agreement prevails.

**10 Insert new section 64A**

A new section 64A is inserted as follows:

**64A False or misleading statement penalty**

- (1) This section applies to a person who makes a false or misleading statement as specified in section 64(1)(a) but which does not result in a tax shortfall.
- (2) Subject to subsection (3), a person to whom this section applies is liable for a false or misleading statement penalty equal to:
  - (a) when the statement or omission was made deliberately or recklessly, \$300; or
  - (b) in any other case, \$100.
- (3) No false or misleading statement penalty applies in the circumstances specified in section 64(5).
- (4) Section 64(8) applies in determining whether a person has made a statement to a tax officer.

**11 Amendment of section 65**

Section 65(2) is amended by omitting the words:

‘or a similar provision under another tax law’

**And substituting with the words:**

‘or section 34 or 36 of the *Business Tax Act 2016*’

**12 Amendment of Schedule 2**

Insert at the end of Schedule 2:

*Business Tax Act 2016*

Any regulations made under the above laws