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#### An Act to—

- (a) provide that the option to apply for relief from additional tax, as provided in the Income Tax Amendment Act 2017, ends on 31 March 2018; and
- (b) provide relief from liability for tax under the Income Tax Act 1997 payable in respect of periods ending before 1 January 2010; and
- (c) recast section 175 of the Income Tax Act 1997 to clarify its intention.

(27 February 2018)

#### The Parliament of the Cook Islands enacts as follows—

- 1 Title**  
This Act is the Income Tax Amendment Act 2018.
- 2 Commencement.**  
This Act comes into force on the day after the date on which it receives the assent of the Queen's Representative.
- 3 Principal Act amended**  
This Act amends the Income Tax Act 1997.
- 4 New section 175 substituted**  
Section 175 is repealed and the following section substituted:  
**“175 Amount of provisional tax**  
**“(1A) In this section,—**  
**year A** means an income year in which provisional tax is payable by a taxpayer

**year B** means the income year immediately preceding year A or, where the taxpayer furnishes an annual return of income under section 9 for an accounting ending with an annual balance date other than 31 December, whatever accounting year of the taxpayer corresponds to the year preceding year A.

- “(1) The amount of provisional tax payable by a provisional taxpayer in respect of year A is the amount of income tax assessable in respect of income derived by the taxpayer in year B, after deducting from that income the amount (if any) of any tax deductions or withholding tax made from any source deduction payments or withholding income included in the income derived in year B.
- “(2) If a provisional taxpayer commenced to derive income from any source part-way through year B, the amount of provisional tax payable by the taxpayer in year A is the amount that the Collector estimates would have been the income tax assessable in respect of year B if the taxpayer had begun to derive income from that source at the beginning of year B.
- “(3) Despite subsection (1), if a provisional taxpayer has an assessable income in year A that is \$20,000 or more, the provisional tax payable in respect of year A is the tax payable on the income in year A, after deducting from that income the amount (if any) of any tax deductions or withholding tax made from any source deduction payments or withholding income included in the income derived in year B.”

#### **5 Section 204 amended**

Section 204(2) (as inserted by section 18 of the Income Tax Amendment Act 2017) is amended by inserting “on or before 31 March 2018” after “On application for relief made in writing”.

#### **6 New section 205A inserted**

The following section is inserted after section 205:

##### **“205A Relief from tax liability for periods before 2010**

- “(1) Despite anything in this Act, on and from the day on which this section comes into force,—
- “(a) no tax is payable under this Act by any person in respect of any period ending before 1 January 2010; and
- “(b) no person is required to file any return required by this Act in respect of any period ending before 1 January 2010, except as provided in subsection (2).
- “(2) The relevant returns required by this Act must be filed by a person for all relevant periods ending before 1 January 2010 if—
- “(a) the person has incurred losses before 1 January 2010 and wishes to claim against those losses in subsequent years; or
- “(b) the person made payments of tax in excess of any amount assessed as payable in respect of any period before 1 January 2010 and the person wishes to claim a refund of the excess amount paid, or to offset that amount against a later tax liability.
- “(3) If, as a result of making an application under section 204(2) before this section comes into force, a person has paid, or made an arrangement to pay, an amount of tax in respect of any period ending before 1 January 2010, the Collector must—

- “(a) refund the taxpayer the amount already paid; or
  - “(b) adjust any arrangement to pay tax so that amount will not be paid.
- “(4) Any tax required under this Act that is paid by a taxpayer before 1 August 2017 in respect of any period ending before 1 January 2010 is not refundable to the taxpayer, and cannot be set off against any future liability to tax.”

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This Act is administered by the Revenue Management Division  
of the Ministry of Finance and Economic Management.  
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