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1978, No. 7

An Act to impose a surcharge on income tax for the year 1978

(27 November 1978)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Income Tax Surcharge Act 1978 and shall be read together with and deemed part of the Income Tax Act 1972 (hereinafter referred to as "the Principal Act").

2. 1978 Tax Surcharge - (1) Notwithstanding any other provisions of the Principal Act there shall be levied and paid for the use of Her Majesty a tax for the year commencing on the 1st day of January 1978 herein referred to as the 1978 Tax Surcharge.

(2) The 1978 tax surcharge shall be assessed, levied and paid at the rate of fifty percent of the income tax payable under the Principal Act on the taxable income of the taxpayers for the year commencing on the 1st of January 1978 before allowances made for such rebates or credits against tax payable as may be allowed by the Principal Act or any other Act.

3. Deductions from P.A.Y.E. etc - Where any income is subject to basic tax deductions at source the 1978 tax surcharge shall, subject to section 8 hereof, be paid by an additional deduction from all income received after 1st November 1978 but before 1st November 1979. The additional deductions shall be:

- (a) In cases where the basic tax deduction is calculated in accordance with Clauses 1 to 4 of the second Schedule to the Principal Act, one half of the amount appropriate to the amount of the payment for the tax code "S", irrespective of the appropriate tax code for the basic tax deduction.
- (b) In all other cases, one half of the amount payable under the appropriate provision of the Principal Act.

4. Increase in Provisional Tax - In the case of income other than income to which Section 3 of this Act applies, the 1978 tax surcharge shall, subject

to section 8 hereof, be paid by an additional payment of fifty percent of the amount of the payments of provisional tax payable for the year commencing 1st January 1979, and shall be paid on the days prescribed for the payment of that provisional tax.

5. Date for filing return - (1) Section 15 of the Principal Act is hereby amended by adding the following proviso to subsection (1):

Provided that for the income year 1978 the return shall be furnished not later than 1st June 1979.

(2) Subsection (1) of section 170 of the Principal Act is hereby amended as follows:

- (a) By omitting from paragraph (a) the words "not later than the 20th January in each year" and substituting words "not later than the 20th day of April 1979 and not later than the 20th day of January in each succeeding year".
- (b) By omitting from paragraph (e) the words "not later than the 15th day of February in each year" and substituting the words "not later than the 14th day of May in 1979 and not later than the 15th day of February in each succeeding year".

6. Application of 1978 payments - (1) For the purposes of section 169 and 170 of the Principal Act deductions made in respect of the 1978 tax surcharge during 1979 shall be deemed to be deductions made from income received during 1978 and shall be shown on tax deductions certificates for 1978 accordingly.

(2) For the purpose of section 177 of the Principal Act the 1978 Tax surcharge deducted from income received in the period 1 January 1979 to 31 October 1979 shall be deemed to be deductions in respect of tax payable in respect of the tax liability of the taxpayer for 1978 and shall be deducted from the 1978 tax surcharge due in respect of the 1978 income year.

7. Duties of persons making deductions - The obligations and liabilities of all persons under the Principal Act in respect of source deductions of tax shall apply with any necessary modifications to deductions in respect of the 1978 tax surcharge.

8. 1978 Tax surcharge deemed to be income tax - For the purposes of sections 60, 176 and 201 of the Principal Act the 1978 tax surcharge shall be deemed to be income tax payable for the year commencing 1 January 1978 and sections 176 and 201 and Parts III and IV of the Principal Act shall with all necessary modifications apply accordingly provided however that the Collector may, in his discretion, permit the 1978 tax surcharge not previously due and payable to be paid at such date or dates as the Collector may determine but not later than the 1st day of January 1980.

9. Additional tax where provisional tax under estimated - Where the Collector is satisfied that any taxpayer has under estimated his income for 1978 solely or principally for the purpose of avoiding or reducing his liability to pay the 1978 tax surcharge payable under section 4 hereof he may impose an additional tax over and above the surcharge that should have been paid on each payment of provisional tax of an amount of not being less than twenty-five percent nor more than one hundred percent of the surcharge.

This Act is administered by the Department of Inland Revenue.