



## INCOME TAX AMENDMENT ACT 2012

No. 319

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**An Act to amend the Income Tax Act 1961 to provide for Cabinet to enter into tax agreements with the government of any country or territory outside Niue concerning the exchange of information, relief from double taxation, and other specified purposes.**

**The Assembly enacts as follows —**

- 1 Title**  
This Act is the Income Tax Amendment Act 2012.
- 2 Commencement**  
This Act comes into force on the day after the date on which it becomes law in accordance with Article 34 of the Constitution.
- 3 Principal Act amended**  
This Act amends the Income Tax Act 1961.

#### **Amendments to principal Act**

- 4 Section 85 substituted**  
The principal Act is amended by repealing section 85 and substituting the following cross-heading and section—

#### **“Tax agreements with other countries and territories**

**5 Tax agreements with other countries and territories**

- (1) A tax agreement may be negotiated for the following purposes—
- (a) to facilitate the exchange of information:
  - (b) to provide relief from double taxation:
  - (c) to provide relief from tax:
  - (d) to tax the income derived from any source in Niue by persons who are not resident in Niue:
  - (e) to determine the income to be attributed to persons who are not resident in Niue and their agencies, branches, or establishments in Niue:
  - (f) to determine the income to be attributed to persons resident in Niue who have special relationships with persons who are not resident in Niue:
  - (g) to prevent fiscal evasion:
  - (h) to assist in recovering unpaid tax.
- (2) A tax agreement comes into force—
- (a) on the date specified in regulations made by Cabinet; and
  - (b) only if those regulations contain a copy of the agreement.
- (3) A tax agreement that comes into force in accordance with subsection (2)—
- (a) has effect despite anything in this Act or any other Act in relation to—
    - (i) income tax:
    - (ii) any other tax:
    - (iii) the exchange of information that relates to a tax:
    - (iv) any obligation as to privacy or secrecy; and
  - (b) may be amended or revoked.
- (4) In this section, **tax agreement** means an agreement that—
- (a) is negotiated for 1 or more of the purposes set out in subsection (1); and
  - (b) is agreed between Cabinet and the government of any country or territory outside Niue.”

**6 Section 152 amended**

Section 152 (as replaced in accordance with section 8 of the Income Tax Amendment (No. 2) Act 2009) is amended by repealing paragraph (b) and substituting the following paragraph—

- (b) “bringing a tax agreement into force in accordance with section 85(2); and”.

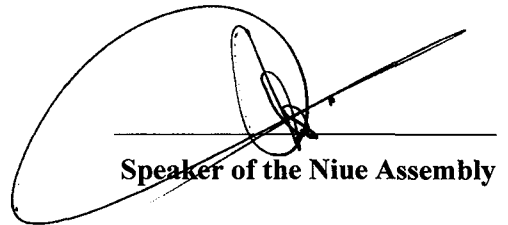
**Savings provision**

**7 Savings provisions**

Nothing in this Act effects any arrangement or tax agreement entered into before the date on which this Act comes into force.


I, AHOHIVA LEVI, Speaker of the Niue Assembly, certify that the requirements of Article 34 of the Niue Constitution have been complied with.

SIGNED AND SEALED at the Assembly Chambers this 17<sup>th</sup> day of August 2012.

  
Speaker of the Niue Assembly

COUNTERSIGNED in the presence of the Speaker.



  
Clerk of the Niue Assembly

This Act was passed by the Niue Assembly on the 16th day of July 2012.

This Act is administered by the Department of Customs and Tax.