

18/01/96

No. 26 of 1995.

Income Tax (Amendment No. 3) Act 1995.

Certified on :

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

Income Tax (Amendment No.3) Act 1995.

ARRANGEMENT OF SECTIONS.

1. Compliance with Constitutional requirements.
2. Repeal and replacement of Section 365.

 "365. ACCESS, ETC., TO BOOKS, ETC.,"

3. Repeal and replacement of Section 366.

 "366. COMMISSIONER GENERAL MAY OBTAIN INFORMATION AND EVIDENCE."

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

AN ACT

entitled

Income Tax (Amendment No.3) Act 1995,

Being an Act to amend the *Income Tax Act 1959,*

MADE by the National Parliament to come into operation on 1 January 1996.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivisions III.3C (*qualified rights*) of the *Constitution*, namely -

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

2. REPEAL AND REPLACEMENT OF SECTION 365.

Section 365 of the Principal Act is repealed and is replaced with the following:-

"365. ACCESS, ETC., TO BOOKS, ETC.,

(1) Subject to this section, the Commissioner General, or an officer authorized by him in that behalf, shall at all times have full and free access to all buildings, places, computers, books, documents, records, papers and other information storage devices for any of the purposes of this Act, and for that purpose may seize, retain and remove for inspection or make extracts from or copies of any such computer, book, documentary or paper records.

(2) An officer is not entitled to remain on or in any building or place under this section if, on being requested by the occupier of the building or place for proof of authority, the officer does not produce an authority in writing signed by the Commissioner General stating that the officer is authorized to exercise powers under this section.

Income Tax (Amendment No.3)

"(3) The occupier of a building or place entered or proposed to be entered by the Commissioner General, or by an officer under Subsection (1), shall provide the Commissioner General or the officer with all reasonable facilities and assistance for the effective exercise of powers under this section.

"(4) The Commissioner General shall not undertake to gain access to places or things under this section without first obtaining prior written approval from the Minister, who may at his full and absolute discretion impose conditions for the grant of access or direct that certain requirements are met to his satisfaction beforehand."

3. REPEAL AND REPLACEMENT OF SECTION 366.

Section 366 of the Principal Act is repealed and is replaced with the following:-

"366. COMMISSIONER GENERAL MAY OBTAIN INFORMATION AND EVIDENCE.

(1) The Commissioner General may, by notice in writing, require a person, whether a taxpayer or not, including a person employed in the Public Service or by an authority constituted by or under a law of Papua New Guinea -

- (a) to furnish him with such information as he may require; and
- (b) to attend and give evidence before him or before any officer authorized by him in that behalf concerning his or any other person's income or assessment, and may require him to produce all books, documents and other papers in his custody or under his control relating to that income or assessment.

"(2) The Commissioner General may require the information or evidence referred to in Subsection (1) to be given on oath, and verbally or in writing, and for that purpose he or the officer so authorized by him may administer on oath.

"(3) The Regulations may prescribe scales of expenses to be allowed to persons required under this section to attend."

I hereby certify that the above is a fair print of the *Income Tax (Amendment No.3) Act 1995* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Income Tax (Amendment No.3) Act 1995* was made by the National Parliament on 6 December 1995 by an absolute majority in accordance with the Constitution.

Speaker of the National Parliament.