



---

**THE INCOME TAX  
(AMENDMENT) (NO. 3) ACT  
1990**

(NO. 16 OF 1990)



# THE INCOME TAX (AMENDMENT) (NO. 3) ACT 1990

(NO. 16 OF 1990)

*Passed by the National Parliament this twenty-second day of November 1990.*

*This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.*

A handwritten signature in black ink, appearing to read 'J.M. Tuhaika'.

*J.M. Tuhaika  
Clerk to the National Parliament*

*Assented to in Her Majesty's name and on Her Majesty's behalf this sixth day of December 1990.*

A handwritten signature in black ink, appearing to read 'G.G.D. Lepping'.

*G.G.D. Lepping  
Governor-General*

*Date of commencement: date of publication in the Gazette.*

AN ACT to Further Amend the Income Tax Act.

ENACTED by the National Parliament of Solomon Islands.

Short title.

1. This Act may be cited as the Income Tax (Amendment) (No.3) Act 1990.

Repeal and replacement of section 19 of Cap. 61.

2. Section 19 of the Income Tax Act is hereby repealed and the following new section substituted therefor -

“Agreements purporting to alter incidence of tax to be void.

19. (1) Every arrangement made or entered into, whether before or after the commencement of this Act, shall be absolutely void against the Commissioner, for income tax purposes, if and to the extent that, directly or indirectly -

(a) its purpose or effect is tax avoidance;

or

(b) where it has two or more purposes or effects, one of its purposes or effects (not being merely an incidental purpose or effect) is tax avoidance, whether or not any other or others of its purposes or effects relates to, or are referable to, ordinary business or family dealings,

whether or not any person affected by that arrangement is a party thereto.

(2) Where an arrangement is void in accordance with subsection (1) of this section, the chargeable income of any person affected by that arrangement shall be adjusted in such manner as the Commissioner considers appropriate so as to counteract any tax advantage obtained by that person from or under that arrangement, and without limiting the generality of the foregoing provisions of this subsection, the Commissioner may have regard to such income as, in his opinion, either -

(a) that person would have, or might be expected to have, or would in all likelihood have, derived if that arrangement had not been made or entered into; or

(b) that person would have derived if he had been entitled to the benefit of all income, or of such part thereof as the Commissioner considers proper, derived by any other person or persons as a result of that arrangement.

(3) Where any income is included in the chargeable income of any person pursuant to subsection (2) of this section, then for the purposes of this Act, that income shall be deemed not to have been derived by any other person.

(4) Without limiting the generality of the foregoing provisions of this section, where in any income year, any person sells or otherwise disposes of any shares in any company under an arrangement (being an arrangement of the kind referred to in subsection (1) of this section) under which that person receives, or is credited with, or there is dealt with on his behalf, any consideration (whether in money or money's worth) for that sale or other disposal, being consideration, the whole or, as the case may be, a part of which, in the opinion of the Commissioner, represents, or is equivalent to, or is the substitution for, any amount which, if that arrangement had not been made or entered into, that person would have derived or would derive, or might be expected to have derived or to derive, or in all likelihood would have derived or would derive, as income by way of dividend in that income year, or in any subsequent income year or years, whether in one sum in any of those years or otherwise howsoever, an amount equal to the value of that part of that consideration shall be deemed to be dividend derived by that person in that first mentioned income year:

Provided that the provisions of this section shall not apply to any arrangement

where the main purpose was to effect the succession by a resident company incorporated for that purpose, to any business carried on by an individual or partnership, if such arrangement does not directly or indirectly effect tax avoidance or one of its purposes or effect (not being merely incidental) is not tax avoidance.

(5) For the purpose of this section -  
“arrangement” means any contract, scheme, disposition, agreement, plan, or understanding (whether enforceable or unenforceable) including all steps and transactions by which it is carried into effect;

“liability” includes a potential or prospective liability in respect of future income;

“tax avoidance” includes -

- (a) directly or indirectly altering the incidence of any income tax;
- (b) directly or indirectly relieving any person from liability to pay income tax;
- (c) directly or indirectly avoiding, reducing, or postponing any liability to income tax.”

