

ACT NO. 8 OF 2002



I assent.

J. I. ULUIVUDA
President

[1 May, 2002]

AN ACT

TO AMEND THE HOTELS AID ACT

[1 January, 2002]

ENACTED by the Parliament of the Fiji Islands—

Short title, etc.

1.—(1) This Act may be cited as the Hotels Aid (Budget Amendment) Act 2002 and deemed to have come into force on 1st January 2002.

(2) In this Act, “principal Act” means the Hotels Aid Act (Cap. 215).

Investment allowance

2.—(1) Section 8(1) of the principal Act is amended by repealing paragraph (b) and substituting the following new paragraph—

“(b) so much of such amount as shall be free of income tax in accordance with paragraph (a) and which cannot be set off against the total income of the hotel business or the total income of the hotel premises for the first fiscal year of the hotel owner after the commencement of operation or after the completion of the extension shall be carried forward and offset against the total income of that hotel business or the total income from that hotel premises for the next successive fiscal years as prescribed under section 105 of the Income Tax Act.”

"(2) Section 8 of the principal Act is amended—

- (a) in subsection (1) by deleting "where" and substituting "Subject to subsection (3), where";
- (b) by inserting the following new subsection—

"(3) Notwithstanding the provisions of this Part, the investment allowance shall only be available to residents of the Fiji Islands or to non-residents for which there is no shift of tax revenue to other countries."

Procedure in case of loss

3. Section 10 of the principal Act is amended by deleting "notwithstanding" in the last line and substituting "subject to".

Interpretation

4. Section 12 of the principal Act is amended—

- (a) by inserting the following new definition—

" "developer profits" means profits derived from hotel development including income gained from the subdivision and sale of land and property;"; and

- (b) by deleting "30th June 2003" in paragraph (b) of the definition of "short life investment" and substituting "31st December 2005".

Income tax exemption

5. Section 21 of the principal Act is amended by repealing subsection (1) and substituting the following new subsection -

" (1) Notwithstanding anything contained in the Income Tax Act, the income of the company shall be exempt from tax on—

- (a) developer profits derived up until 31st December 2005; and
- (b) profits derived from the operation of the hotel for a period of—
 - (i) if the hotel has a minimum capital investment of not less than \$10,000,000 but less than \$40,000,000 – 10 years; or
 - (ii) if the hotel has a minimum capital investment of not less than \$40,000,000 —20 years."

Depreciation

6. Section 22 of the principal Act is repealed and substituted by the following new section—

"Depreciation

22. During the period from the date appointed by the Minister under the provisions of section 20 to the end of the accounting period in which the last day of the tax-free period falls, such depreciation shall be written off the assets of that company in calculating its profits or gains as would have

been available to it under the provisions of the Income Tax Act if the company were not in receipt of the concession provided by this Part, and the written down values of such depreciable assets at the end of the accounting period in which the last day of the tax-free period falls shall be calculated accordingly:

Provided that the company shall not be obliged to claim initial allowances but such election shall in that event continue for the whole of the tax free period.”.

Carry forward of losses

7. Section 23 of the principal Act is repealed and substituted by the following new section—

“Carry forward of losses

23. Subject to the provisions of the Income Tax Act, any loss incurred by the company in the operation of the hotel may be carried forward and set off against the total income of that hotel business or the total income from that hotel premises for the next 8 years in succession.”.

Passed by the House of Representatives this 13th day of February, 2002.

Passed by the Senate this 8th day of March, 2002.

Senate amendments passed by the House of Representatives on this 3rd day of April, 2002.