

[Hon A Member]

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## **Income Tax (Automatic Exchange of Financial Account Information) Amendment Bill 2016**

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**An Act to amend the Income Tax Act 1997 to enable the Cook Islands to provide for—**

- (a) **the exchange of tax information in accordance with the common reporting standards; and**
- (b) **other mutual assistance in tax matters; and**
- (c) **related matters.**

**The Parliament of the Cook Islands enacts as follows—**

**2 Title**

This Act is the Income Tax (Automatic Exchange of Financial Account Information) Amendment Act 2016.

**3 Commencement**

This Act comes into force on [insert commencement date].

**4 Principal Act amended**

This Act amends the Income Tax Act 1997.

**5 New Part VIA inserted**

The following Part is inserted after Part VI—

**“Part VIA**

**“Implementation of arrangements to exchange tax information or provide other mutual assistance in tax matters**

**“96A Interpretation**

- “(1) In this Part, unless the context otherwise requires,—  
**CRS** means the Common Reporting Standard set out in Part II.B of the Standard for Automatic Exchange of Financial Account Information in Tax Matters approved by the Council of the Organisation for Economic Co-Operation and Development on 15 July 2014  
**MAC** means the Convention on Mutual Administrative Assistance in Tax Matters, as amended by 2010 Protocol  
**MCAA** means the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information to which the Competent Authority of the Cook Islands became a signatory as from 29 October 2015.
- “(2) The CRS must be applied consistently with Part III.B (the **CRS Commentary**) of the Standard for Automatic Exchange of Financial Account Information in Tax Matters.

**“96B Regulations**

- “(1) The Queen’s Representative may, by Order in Executive Council, make any regulations that the Queen's Representative deems necessary or expedient for implementing or giving effect to the provisions of—
- “(a) the CRS:
  - “(b) the MAC:
  - “(c) the MCAA:
  - “(d) any other international agreement, arrangement, convention, or standard that relates to or affects income tax or other taxes to which the Government of the Cook Islands is a party or signatory, whether with any other country or territory or any international organisation:
  - “(e) any amendment from time to time made to any international agreement, arrangement, convention, or standard referred to in any of paragraphs (a) to (d).
- “(2) Without limiting subsection (1) or section 229, such regulations may—
- “(a) create offences in respect of the contravention of, or non-compliance with, the regulations; and provide for the imposition of fines not exceeding [\$10,000] for an individual and not exceeding [\$100,000] for a body corporate, including the imposition of different fines in respect of a first offence, a second offence, and subsequent offences:
  - “(b) incorporate by reference any provisions (including definitions) referred to in subsection (1), with the modifications (if any) specified in the regulations:
  - “(c) provide arrangements for the exchange of tax information in accordance with any provisions referred to in subsection (1), subject to section 7:
  - “(d) require that information to be provided at the times and in the form and manner specified in the regulations:
  - “(e) impose obligations on relevant financial entities (including obligations to obtain from specified persons details of their place of residence for tax purposes):

- “(f) provide that a reference in the regulations to any international agreement, arrangement, convention, or standard to which subsection (1) refers, or a provision of it, is to be construed as a reference to the agreement, arrangement, convention, or standard, as amended from time to time:
  - “(g) make different provision in relation to different periods of time:
  - “(h) make different provision for different cases or circumstances:
  - “(i) contain any incidental, supplemental, transitional, transitory, or saving provision.
- “(3) Any international agreement, arrangement, convention, or standard to which subsection (1) refers may be provided for by regulations whether or not the agreement, arrangement, convention, or standard has come into force for the Cook Islands, but the regulations may not come into force before the agreement, arrangement, convention, or standard comes into force for the Cook Islands.
- “(4) No regulation made under this section may be treated or regarded as invalid because it deals with any matter already provided for by any Act or because of any repugnancy to any Act.

**“96C International agreements and arrangements on tax have effect in Cook Islands**

Every international agreement, arrangement, convention, or standard to which section 96A(1) refers has effect as part of the law of the Cook Islands to the extent provided for by the regulations.”

- 6 Section 219 amended (Collector to have power to inspect books and documents)**  
Section 219(1)(b) is amended by inserting “or giving effect to Part VIA” after “section 186”.
- 7 Section 220 amended (Information to be furnished on request of Collector)**  
Section 220(1) is amended by inserting “or giving effect to Part VIA” after “section 186”.
- 8 Section 221 amended (Inquiry before a Judge of the High Court)**  
Section 221(1) is amended by inserting “or giving effect to Part VIA” after “section 186”.

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This Act is administered by the Revenue Management Division of the Ministry of Finance and Economic Management.

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