PARLIAMENT OF THE COOK ISLANDS

INCOME TAX AMENDMENT BILL

EXPLANATORY NOTE

This note does not form part of the Bill but is intended to indicate its effect.

Clause 1 is the title clause.

Clause 2 provides that this Bill comes into force on the day after it receives the consent of the Queen's Representative.

Clause 3 states that the principal Act amended by this Bill is the Income Tax Act 1997.

Clause 4 substitutes a new section 175, which is about how provisional tax is calculated. Section 175(3), in its original version, did not clearly set out the intended policy. The policy is that if the expected income tax of a provisional taxpayer in any income year is $20,000 or more, then provisional tax should be paid in that year on the basis of the expected income, and not on the basis of the income of the previous year (which is the usual basis for calculating provisional tax). This is to prevent taxpayers using a low income in one year to justify not paying provisional tax the next year, even if the income in that next year is high. In order to be able to express this policy, the whole section has been recast for clarity.

Clause 5 amends section 204(2) of the principal Act, which was also inserted by the Income Tax Amendment Act 2017. Section 204 is about relief from additional tax payable on tax that is paid late. The amendment in 2017 provided that people could apply for relief from additional tax that they owed as at 1 August 2017, subject to various conditions. The amendment in this Bill puts an end-date on that, by saying that any application for relief must be received on or before 31 March 2018.

Clause 6 inserts a new section 205A into the principal Act. The section provides relief from the obligation to pay any tax payable under the principal Act in respect of periods ending before 1 January 2010. Generally, tax already paid in respect of that period will not be refunded. Under this section, taxpayers will no longer be required to make any returns required by the principal Act relating to periods ending before 1 January 2010, but they will be required do so if they wish to carry forward losses incurred during that time, or to claim a refund of, or offset against future liability, any excess tax paid before 1 January 2010. This provision is to apply retrospectively as from 1 August 2017, so any payments of tax relating to the pre-2010 period that have been made since 1 August 2017 will be refunded.

However, any payments made by a taxpayer prior to 1 August 2017 relating to any period prior to 1 January 2010, will **not be** refunded.