



**REPUBLIC OF NAURU**

## **Employment and Services Tax Bill**

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**Bill No. 14 of 2014**

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**A Bill for an Act to provide for the taxation of employment income and certain payments to non-residents, and for related purposes**

*Certified on [ ] 2014*

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## REPUBLIC OF NAURU

**Employment and Services Tax Act**


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 Act No. [ ] of 2014
 

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**An Act to provide for the taxation of employment income and certain payments to non-residents, and for related purposes**

*Certified on [ ] 2014*

Enacted by the Parliament of Nauru as follows:

**PART 1 - PRELIMINARY MATTERS****1 Short title**

This Act may be cited as the *Employment and Services Tax Act 2014*.

**2 Commencement and application**

- (1) This Act commences on the date that notice of the Act is published in the Gazette.
- (2) This Act applies to employment income and services fees paid on or after the 1 October 2014.

**3 Definitions**

In this Act:

**‘approved form’** has the meaning in the Revenue Administration Act;

**‘associate’** has the meaning in section 4;

**‘employee’** means an individual engaged in employment;

**‘employer’** means a person who engages or remunerates an employee;

**‘employment’** includes:

- (a) a directorship or other office in the management of a company or a body of persons;

- (b) a position entitling the holder to a fixed or ascertainable remuneration; or
- (c) the holding or acting in any public office;

***‘employment income’*** has the meaning in section 5;

***‘international agreement’*** means:

- (a) an agreement between the Government of Nauru and a foreign government for the prevention of double taxation; or
- (b) an agreement between the Government of Nauru and a foreign government or an international organisation for the provision of financial, technical, humanitarian, or administrative assistance to the Government;

***‘international organisation’*** means an organisation, the members of which are sovereign powers or governments of sovereign powers;

***‘knowhow’*** means any scientific, technical, commercial, management, or industrial information, techniques, knowledge, experience, or skill;

***‘management fee’*** means an amount as consideration for the rendering of any managerial service, but does not include employment income;

***‘non-profit organisation’*** has the meaning in section 6;

***‘non-resident individual’*** has the meaning in section 7;

***‘non-resident person’*** means a person who is not a resident person;

***‘pay period’***, in relation to an employee, means:

- (a) if the employee is paid monthly, a calendar month;
- (b) if the employee is paid fortnightly, a fortnight;
- (c) if the employee is paid weekly, a week; or
- (d) if the employee is paid on any other basis, the period specified in the notice served on the employee under section 17(3);

***‘payer’*** means a person liable to withhold tax under section 18;

***‘permanent establishment’*** means a fixed place of business through which the business of a person is wholly or partly carried on, and includes the following:

- (a) an office, factory, warehouse, or workshop, but does not include an office that has representation of the person's business as its sole activity;
- (b) a mine site, oil or gas well, quarry, or other place of exploration for, or extraction of, natural resources, including a boat or ship that provides a base for the exploration or extraction of natural resources;
- (c) a building site, construction, assembly or installation project, or supervisory activities connected with such site or project, but only if the site, project, or activities continue for more than ninety days;
- (d) the furnishing of services by a person, including consultancy services, through employees or other personnel engaged by the person for such purpose, but only if activities of that nature continue for the same or a connected project for a period or periods aggregating more than ninety days in any twelve-month period;
- (e) a person, other than an agent of independent status, acting on behalf of another person (referred to as the "principal"), when the first-mentioned person:
  - (i) has and habitually exercises an authority to conclude contracts on behalf of the principal; or
  - (ii) habitually maintains a stock of goods from which the person regularly delivers goods on behalf of the principal;

***'person'*** means:

- (a) an individual;
- (b) a partnership, trust, company, or other body of persons;
- (c) the Government of Nauru, a local authority in Nauru, a foreign government, or a political subdivision of a foreign government;  
or
- (d) an international organisation;

***'received'***, in relation to a person, includes:

- (a) applied on behalf of the person either at the instruction of the person or under any law;