

# **Melanesian Trusts (Income Tax Exemption) Amendment Bill**

Private Bill

## **Explanatory note**

This bill will amend the Melanesian Trusts Act 1974 to provide, for the avoidance of doubt, that from the commencement date of the Melanesian Trusts Act 1974 the following were and are exempt from income tax:

- income derived by the Melanesian Mission Trust Board (including from any business carried on by, or for, or for the benefit of the Trust Board); and
  - distributions of income by the Melanesian Mission Trust Board.
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*Hon Phil Goff*

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### **Preamble**

- (1) The Melanesian Mission Trust Board is incorporated in New Zealand under the Charitable Trusts Act 1957.
- (2) The Trust Board is required by section 4 of the Melanesian Trusts Act 1974 to hold all the property and income of the Trust Board in trust for the Province of Melanesia being the British Solomon Islands Protectorate, the New Hebrides Condominium and New Caledonia. 5
- (3) The Trust Board has always treated its income and distributions of income as exempt from income tax because of—
  - (a) its charitable status; and 10
  - (b) its view that its charitable activities do not involve the carrying on of a business.
- (4) There is some uncertainty about the correctness of the Trust Board's view on the business issue since the decision of the New Zealand Court of Appeal in *Dick v Commissioner of Inland Revenue* (2002) 20 NZTC 17, 961. 15
- (5) The object of this Act is to provide, in order to avoid doubt, that from the commencement date of the Melanesian Trusts

Act 1974 the following were and are exempt from income tax—

- (a) income derived by the Melanesian Mission Trust Board (including from any business carried on by, or for, or for the benefit of the Trust Board); and 5
  - (b) distributions of income by the Melanesian Mission Trust Board:
- (6) This object cannot be achieved without legislation:

**The Parliament of New Zealand therefore enacts as follows:**

- 1 Title** 10  
This Act is the Melanesian Trusts (Income Tax Exemption) Amendment Act 2007.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal Assent. 15
- 3 Principal Act amended**  
This Act amends the Melanesian Trusts Act 1974.
- 4 Purpose**  
The purpose of this Act is to amend the Melanesian Trusts Act 1974 to provide, in order to avoid doubt, that from the commencement date of the Melanesian Trusts Act 1974 the following were and are exempt from income tax: 20
- (a) income derived by the Melanesian Mission Trust Board (including from any business carried on by, or for, or for the benefit of the Trust Board); and 25
  - (b) distributions of income by the Melanesian Mission Trust Board.
- 5 New section 4A inserted**  
The following new section is inserted after section 4:
- “4A Income tax exemption** 30  
“(1) This section applies to amounts of income derived by the Trust Board, including income derived directly or indirectly from any business carried on by, or for, or for the benefit of the Trust Board, and to amounts derived as distributions of

income that are made by the Trust Board in accordance with this Act.

- “(2) Amounts of income derived by the Trust Board, and amounts derived as distributions of income made by the Trust Board, referred to in **subsection (1)** are, as the case may require: 5
- “(a) exempt from tax under the Land and Income Tax Act 1954, the Income Tax Act 1976, and the Income Tax Act 1994;
- “(b) exempt income under the Income Tax Act 2004.
- “(3) This section applies from the commencement date.” 10