STANDARD INTERPRETATION GUIDELINE 2024-04

CUSTOMS REGULATIONS 1986 – POST ENTRY MODIFICATION

This Standard Interpretation Guideline ("SIG") sets out Fiji Revenue and Customs Services' ("FRCS") operational practice in relation to policy changes announced in the 2023/2024 National Budget in respect to Post Entry Modification.

It is issued with the authority of the Comptroller of Customs and Excise (the Comptroller), who is also the Chief Executive Officer ("CEO") of FRCS.

Legislative references in this SIG are to the Customs Regulations 1986, unless otherwise stated.

This SIG is in effect from 1st August 2023 and may need to be reviewed in the event of any relevant legislative amendments.

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PURPOSE

1. The purpose of this SIG is to provide practical guidance on CEO's interpretation regarding the modification of paid customs entries and its fee as specified in Regulation 47(3A) of the Customs Regulations 1986.

2. The amendment is effective from 1 August 2023.

INTRODUCTION

3. In our continuous efforts to ensure efficiency in the processing and facilitation of trade, this provision has been introduced with a fee of $15.

4. This SIG will also discuss the exclusions to this provision.

5. The examples used throughout this SIG are merely illustrative. They do not cover the infinite number of factual scenarios that may arise. The relevant legislative provisions must be considered and applied to each case on its particular facts. That is, conclusions should not be drawn by determining whether the facts of a particulars case may be analogous with examples, but rather on the basis of applying the correct tests established by the law.

6. The full text of the legislative provisions is contained in the Appendix.

LEGISLATIVE ANALYSIS

7. Regulation 47 (3A) of Customs Regulations 1986 provides for the fee payable in the event any Post Entry Modification (PEM) is required for a custom entry.

8. PEM is an amendment to a customs entry or single administrative document (SAD) once the duty is paid.

9. This provision was designed to allow for the proper vetting of entries to correct errors made during the creation of the customs entry and other amendments. These modifications accommodate for incorrect tariff classification, procedure codes, values, attachments, consignee etc.

10. A fee of $15 is levied for the PEM.

11. To utilise this provision, the approved form (attached in the appendix) is to be filled and submitted with the application fee at the nearest Port for processing.

Example 1
Custom Agent ABC has paid an entry for Company DEF. The assessment officer has advised the Custom Agent ABC that they have used an incorrect tariff on the entry. Is the Custom Agent ABC required to apply for PEM?

CEO's Position:
Yes, Custom Agent ABC will pay for the PEM.

Example 2

Custom Agent JFK wishes to make 3 amendments to a single SAD in the same instance while Customs Agent GHI requests for 3 amendments on separate occasions to the same SAD. How many times will each agent be liable for the PEM fee?

CEO's Position:

Custom Agent JFK only pay the PEM fee once while, the Customs Agent GHI will pay for each of the separate amendments.

EXCLUSIONS:

12. The following are exclusions to the PEM Fee:

    12.1 Entries modified because of an audit and investigation.

    12.2 The following SAD types:

    - Provisional FS5[1] SAD
    - EX1[2] SAD for Gold with procedure code 1010 which are entered for perfecting within the allocated timeframe.
    - BA4[3] SAD
    - SAD amended to insert the prepayment (PPD) account number after the online remittance has been made to the PPD account and cashier has confirmed the receipt of the same in FRCS account (does not include if the stakeholder has made an error to enter the PPD account)
    - OBR[4] Entry for budget changes

    12.3 Amendments relating to duty deferment scheme not being activated for Bonded Warehouse SAD's .

13. The above exclusions will not be levied the PEM fee.

14. Any other procedures apart from those listed above may be considered on a case-by-case basis.

Example 3

A custom entry has been audited. Upon completion of the audit, the custom officer has raised an assessment for incorrect tariff classification. Will this entry be eligible for the PEM fee?

CEO's Position:

Since the amendment is the result of an audit, the amendment for incorrect tariff shall not be levied the PEM fee.

15. For further information and clarification in regard to this SIG, please email us at tipu@frcs.org.fj

[1] FS5 - Temporary Fish Imports
[2] EX1 – Export SAD
[3] BA4 – BOL/AWB/Baggage Assessment
[4] OBR – Old Budget Rate

APPENDIX:

A. LEGISLATION

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EXTRAORDINARY

GOVERNMENT OF FIJI GAZETTE SUPPLEMENT

No. 21 **MONDAY, 31st JULY** **2023**

[LEGAL NOTICE NO. 52]

CUSTOMS ACT 1986

Customs (Amendment) Regulations 2023

IN exercise of the powers conferred on me by section 191 of the Customs Act 1986, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Customs (Amendment) Regulations 2023.

(2) These Regulations come into force on 1 August 2023.

Regulation 47 amended

2. Regulation 47 of the Customs Regulations 1986 is amended after subregulation (3) by inserting the following new subregulation—

> "(3A) A fee of $15 is payable for any modification of any entry or assessment made by a person for the purpose of any entry lodged and processed by the Comptroller.".

Made this 31st day of July 2023.

B. APPROVED FORM

FIJI REVENUE AND CUSTOMS SERVICE

Post Entry Modification Declaration Form

Application To Modify Entries After Assessment

WE HEREBY APPLY FOR THE MODIFICATION OF THIS DECLARATION:

Sad Reference Number: ____________________ Date: __________

Reasons For Amendment: ____________________

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Importer: ____________________

Exporter: ____________________

Agent Name: ____________________

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Authorized Clerk Name: ____________________

Signature/Stamp:

OFFICIAL USE ONLY

Folio Number: ____________________

Application Status: Approved ☐ Declined ☐

Remarks: ____________________

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Proper Officer: ____________________ Date: __________

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Stamp: ____________________

Signature/Stamp: