FIJI REVENUE AND CUSTOMS SERVICE

STANDARD INTERPRETATION GUIDELINE 2024-05

CUSTOMS TARIFF ACT 1986 – CONCESSION CODE 215 (CHARITABLE AND RELIGIOUS ORGANISATIONS) AND 215A (HUMANITARIAN GOODS)

This Standard Interpretation Guideline ("SIG") sets out Fiji Revenue and Customs Services' ("FRCS") operational practice in relation to Code 215 and 215A of the Customs Tariff Act 1986.

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 Tariff Act 1986, unless otherwise stated.

This SIG replaces SIG 2018-07 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 Concession Code 215 and 215A of the Customs Tariff Act 1986.

INTRODUCTION

2. Charitable and religious organisations serve similar primary objectives. Typically, these include the advancement of social and public welfare through education, health, relieving poverty and community development.

3. Code 215 of the Customs Tariff Act is designed to facilitate duty concession on donations or importations made by charitable and religious organisations while Code 215A facilitates goods imported as humanitarian aid during natural disasters. These concessions are granted at the rates of Free Fiscal, Free Import Excise and Free VAT.

4. This SIG will outline how the provisions of Concession Code 215 and 215A of the Customs Tariff Act are to be applied.

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

A. CODE 215 OF THE CUSTOMS TARIFF ACT 1986

Code No. (1)	Persons of Bodies (2)	Goods Eligible for duty concession (3)	Duty Rates			Conditions (7)	Certificate signed by (8)
			Fiscal (4)	Excise (5)	VAT (6)		
215	Registered Charitable and Religious Organizations	Goods as approved by the Comptroller	Free	Free	Free	a) That the goods are a gift to or are imported by or on behalf of an organization specified in column (2); b) That the goods are distributed free to hospital patients and persons in need of support, or are used for the free treatment, assistance or education of such persons.	The person approved by the Comptroller

7. Column (1) provides the identifier (215) used to claim this concession on any form of customs declaration.

8. Column (2) specifies that the eligible persons or bodies for this concession are “registered charitable” and “religious organisations”.

9. A charitable organisation can be any institution, body of persons or irrevocable trust of a public character solely for the relief of poverty or distress of the public. Other characters include:
   - Non-profit body;
   - The funds owned by the organisations will not be available to any member for personal use;
   - The assets of the organisations will not be available to any member for personal use upon cessation; and
   - The assets will be distributed to other charitable organisations upon closure.

10. Religious organisations have a primary purpose of the advancement of religion, edification in piety, worship, and religion observances. Larger organisations offer to their members and community resources or services such as education, health clinics and counselling services.

11. For the purpose of this concession, charitable and religious organisations must be legally recognised (registered) in Fiji as operating in that nature. In doing so, all religious and charitable organisations that wish to claim this concession are required to present registration documents issued by the Registrar of Titles.

12. Column (3) of Code 215 specifies that goods eligible for concession shall be approved by the Comptroller on a case-by-case basis.

13. Goods eligible for this concession must be of a nature that is suitable for the purpose for which the religious or charitable organisation functions. This shall be subject to further deliberation by the Comptroller for the protection of government revenue.

14. Approved goods typically considered under Code 215 include clothing, books, stationery, medical supplies, and linens etc. Consideration shall be made on a case-by-case basis depending on the nature of the goods and purpose for which it is imported.

15. This concession is not extended to the importation of motor vehicles, building materials, sound amplifying equipment, statues, and generators etc.

16. Column (4), (5) and (6) specifies the rates of duty applicable for goods eligible under this concession. The applicable rates are Free Fiscal, Free Import Excise and Free VAT.

17. The reduced rates of duties are reflective of the nature of the eligible bodies and the anticipated benefits that is expected from the utilisation of the resources by society.

18. Column (7) sets out the conditions that need to be met by the eligible bodies for fulfilment of this concession.

18.1 Condition (a) satisfies all the possible scenarios in which an eligible body will be receiving goods. This covers gifts, donations, direct purchases, and goods imported on behalf of the organisation by donors or supporters.

18.2 Condition (b) limits what can be eligible for this concession based on its purpose. The first part of this facilitates entities that fulfill their respective purpose by providing or distributing freely for the needy, disabled, impoverished, or sickly. Recipients of these donations can be wide ranging and include members and non-members of these organizations.

18.3 Further to this, goods can be imported to support the purpose of the charitable or religious organisation. These organisations may offer services or other means of support and assistance such as counselling, medical treatment, spiritual and moral guidance. This concession supports the importation of the resources that are used to fulfil these functions and shall be considered on a case-by-case basis.

Example 1:
Mr Green has donated school stationery and children's clothing from the UK to the Homes of Love in Fiji. The container has been consigned to Homes of Love. Homes of Love is an orphanage that is run by a registered religious organisation and provides shelter and support to homeless and abandoned children.

Will this qualify under Code 215?

CEO's Position
The donation is being consigned to Homes of Love on behalf of a registered religious organisation. The goods imported support the purpose for which the religious organisation is operating the orphanage. Therefore, based on the consignee meeting conditions (a) and (b), Code 215 will be applicable.

Example 2:
Happy Hearts is a charitable organization that assists children with medical conditions affecting the heart by offering free surgery and medical checks. Happy Hearts has imported surgical equipment that will be used by the surgeons performing the surgeries.

Will the surgical equipment qualify under Code 215?

CEO's Position:
As a registered charitable organization, "Happy Hearts" purpose is to provide free heart surgery. Considering the specialised nature of the surgical equipment and the purpose for which it is imported this consignment will be eligible for concession under Code 215.

19. Goods not qualifying under this concession may be facilitated under other provisions of the Customs Tariff Act 1986 provided the necessary conditions are satisfied. If no other provisions can facilitate the request, normal rates of duty shall be charged on the goods not qualifying based on the classification of the goods.

20. To claim this concession an "application letter", "bill of lading", "charitable or religious certificate" and "packing list" must be sent to Tariff and Trade on tariff&trade@frcs.org.fj for assessment.

B. CODE 215A OF THE CUSTOMS TARIFF ACT 1986

Code No. (1)	Persons of Bodies (2)	Goods Eligible for duty concession (3)	Duty Rates			Conditions (7)	Certificate signed by (8)
			Fiscal (4)	Excise (5)	VAT (6)		
215A	Approved entities and individuals	Any goods, material or equipment determined by the Minister responsible for Finance as necessary for the purposes of humanitarian aid, natural disaster relief and recovery from a natural disaster declared in accordance with Section 17 of the Natural Disaster Management Act 1998	Free	Free	Free	a) That the goods are a donation to or are imported by or on behalf of an organization or individuals approved under Column (2); b) That the goods are for free distribution to the persons in need of support and assistance; c) That the goods are not for re-sale and are used exclusively for the purposes the concession is granted; d) That the disposal or use of the goods for the purposes other than that for which the concession is granted subject to the conditions laid pursuant to Section 11A of the Customs Tariff Act 1986.	The person approved by the Comptroller

21. Code 215A provides for the importation of goods for the purpose of humanitarian aid during natural disasters.

22. Column (1) provides the identifier (215A) used to claim this concession.

23. Column (2) specifies that the eligible bodies for this concession are approved entities and individuals. This ensures that support can be provided by both individuals and corporate entities that wish to provide aid during natural disasters.

24. Individuals in the affected areas can import goods for their rehabilitation and receive goods donated from overseas to support them.

25. This concession also facilitates relief aid consigned to the National Disaster Management Office (NDMO) for distribution to the affected areas.

26. Column (3) provides for the type of goods that are eligible under Code 215A and has been limited to:
    - ➢ Any goods, material or equipment;
    - ➢ Determined by the Minister responsible for Finance as necessary; and
    - ➢ For the purposes of humanitarian aid, natural disaster relief and recovery from a natural disaster declared in accordance with Section 17 of the Natural Disaster Management Act 1998.

27. Due to the unpredictable and recurring nature of natural disasters within Fiji, this provision has been designed specifically to activate once a “State of Emergency” is declared by the National Disaster Management Office under Section 17 of the Natural Disaster Management Act 1998.

28. A natural disaster includes the occurrence of a major misfortune which disrupts the basic fabric and normal functioning of the society or community, or an event or series of events which give rise to casualties, and or damage or loss of property, infrastructure, essential services or means of livelihood on a scale which is beyond the normal capacity of the affected communities to cope with unaided, but does not include man-made disasters[1].

29. The announcement of the “state of emergency” will provide relevant details on the specific areas that are affected and the duration of the period.

30. The concession will be valid for the effective period of the state of emergency and must only be utilised for the rehabilitation of the affected areas and its people.

31. While it is understood that the importation of goods tends to face logistical challenges, it is strongly recommended that approval is sought prior to the loading of goods. Consignments arriving after the cut-off date of the “state of emergency” will only be considered if the approval was granted within the period of the “state of emergency” and the goods were loaded before the end date. Documentary evidence such as the Bill of Lading will be required to verify the loading date.

Example 3:
Tropical cyclone Kat was declared to be of Category 2 level and only affected the central division of Fiji. Preliminary assessments by the relevant authority saw that there were minor damages to housing and infrastructures. The damages caused by TC Kat was not declared as a “state of emergency” under Section 17 of NDMA 1998.

Will TC Kat cause Code 215A to be activated for use?

CEO’s Position:
No, since the damages caused by TC Kat was not declared as a “state of emergency” under Section 17 of the NDMA 1998, concession Code 215A will not be activated.

Example 4:
Tropical cyclone Kit was declared a Category 5 cyclone, and a state of emergency was declared for 30 days under Section 17 of the National Disaster Management Act 1998 due to its destructive nature. The state of emergency was effective from 1 March 2024 for the whole of Vanua Levu only. During this period, 2 containers were sent to Fiji by an individual as humanitarian aid. Container 1 is consigned to Vanua Levu and Container 2 is consigned to Lautoka. Both containers have foods items, clothing, beddings, and school stationeries and arrived on 20 March 2024.

(a) **Will Code 215A be applicable for these imports?**
(b) **Suppose Container 1 arrived on 31 March 2024 and was loaded on 15 March 2024. Will Code 215A still be applicable?**

[1] Section 2, Part 1 of the Natural Disaster Management Act 1998

CEO's Position

(a) Firstly, the following has been established:

- ➢ TC Kit has been declared a natural disaster under Section 17 of the National Disaster Management Act 1998; and
- ➢ The state of emergency is valid from 1 – 30 March 2024 specifically for Vanua Levu.

While the goods in both containers have been determined to be relevant for humanitarian aid, only Container 1 will be eligible for Code 215A. This is because it has been imported specifically to support humanitarian efforts in Vanua Levu during the state of emergency. However, Container 2 will not be eligible for concession Code 215A since it is not consigned for Vanua Levu during the state of emergency.

(b) To be considered for concession the importer must first provide documentation to confirm that the consignment was loaded on or before 30 March 2024. Once this is established, then the other factors discussed in (a) shall take effect and the Container 1 shall be eligible for Code 215.

32. Assessment of concession can be made at Port Level provided the relevant clarifications are made respective officers regarding:

- ➢ Whether the recipients reside in the affected area identified during the state of emergency;
- ➢ whether the nature of the goods are necessary for the purposes of humanitarian aid, natural disaster relief and recovery from a natural disaster; and
- ➢ There is a support letter from the NDMO.

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

APPENDIX:
Legislation

Code No. (1)	Persons of Bodies (2)	Goods Eligible for duty concession (3)	Duty Rates			Conditions (7)	Certificate signed by (8)
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