FIJI REVENUE AND CUSTOMS SERVICE

STANDARD INTERPRETATION GUIDELINE 2024-06

HOTEL INVESTMENT INCENTIVES – INCOME TAX ACT 2015 – INCOME TAX (HOTEL INVESTMENT INCENTIVES) REGULATIONS 2016 and CUSTOMS TARIFF ACT 1986 – CONCESSION CODE 235, 235A and 244

This Standard Interpretation Guideline (SIG) sets out Fiji Revenue and Customs Service's (FRCS) policy and operational practice in relation to hotel investment incentives, including the amendments announced in 2021-2022 National Budget.

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

All legislative references in this SIG are to the Income Tax Act 2015 (ITA 2015) and the Income Tax (Hotel Investment Incentives) Regulations 2016 ("Regulations"), unless otherwise stated.

This SIG which replaces SIG 2021-17 is in effect from 1 August 2023 and may need to be reviewed in the event of any relevant legislative amendments.

CONTENTS

PURPOSE

1. The purpose of this Standard Interpretation Guideline (SIG) is to discuss CEO's interpretation and application of hotel investment incentives available under Income Tax (Hotel Investment Incentives) Regulations 2016 including the amendments arising from the National Budget 2023-2024[1].

2. The SIG also aims to provide clarity and FRCS position on the application of the provisions under Concession Code 235, 235A and 244 which relates to duty exemptions on the importation of capital goods for the purpose of the short life investment[2].

3. Through this SIG, the CEO provides awareness and clarity on the requirements to qualify for the incentive, the legislated procedural requirements and the tax and duty exemption benefits associated with the incentive.

INTRODUCTION

4. The tourism sector has been a prominent contributor to the economy of Fiji of which hotels are an integral part. Concessions for the hotel sector are contained in the Income Tax (Hotel Investment Incentives) Regulations 2016 which was effective from 1 January 2016 and subsequent amendments.

5. The following changes announced in the National Budget 2023-2024 are now in force:
   Short Life Investment Package (SLIP)
   - Incentive applies to new businesses only with effect from 1 August 2023, however the SLIP concessions for refurbishment or renovation of an existing hotel still applies to projects granted provisional approval up to 31 December 2023.
   - Imposition of 3% duty under concession codes 235 and 235A Customs Tariff Act 1986.

6. Very broadly, the hotel incentives regulations provides two kinds of concessions –
   a) **Standard Allowance** – Part 2 of the Regulations is available to a hotel owner or an integrated tourism development owner who has been given final approval in respect of a project. For the purpose of standard allowance, the project should be a new hotel, extension of an existing hotel, refurbishment and renovation[3] or buying of units in a hotel or integrated tourism development.
   b) **Short Life Investment Package (SLIP)** – Part 3 of the Regulations available to companies granted provisional or final approval in respect of a building project of a **new hotel or integrated tourism development** with capital investment above the prescribed limits.

7. In this SIG, a **hotel[4]** means any premises in which accommodation is supplied to or is available to be supplied to persons in exchange for money or other valuable consideration, including—
   a) a villa for resort purposes;
   b) a retirement resort constructed with facilities, services and amenities for retirement, including facilities for health services for such resort, and the villa or retirement resort will provide accommodation for guests for hire or reward or for the owner or occupier, for a period of not more than 12 weeks; or

[1] Income Tax (Hotel Investment Incentives) (Amendment) Regulations 2021.
[2] Part 3 of Income Tax (Hotel Investment Incentives) Regulations 2016
[3] Regulation 2
[4] Regulation 2

c) for the purpose of Part 2, quarters constructed for the workers of the hotel in an island resort, but for the purpose of Part 3, does not include quarters and any facility constructed for the residence of the owner or for managers or workers of the hotel;

8. Also, an **integrated tourism development**[5] means the development of a hotel and the subdivision and sale of residential lots, including the development of jetties, moorings, recreational facilities and other amenities.

9. In this SIG, any reference to the term "Minister" is a reference to the Minister responsible for Finance[6].

10. 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 particular examples, but rather on the basis of applying the correct tests established by the law.

11. The full text of the legislative provisions is contained in Appendix 1.

LEGISLATIVE ANALYSIS

Standard Allowance – Part 2

12. The standard allowance is available in two stages:
    (a) Provisional approval; and
    (b) Final approval.

13. It is an essential requirement that provisional approval must be obtained prior to commencement of the project.

Provisional Approval

14. A person wishing to carry out a project[7] may apply in writing to the CEO for provisional approval of the proposed project[8]. The application must set out the following:

    a) the name and details of the person;
    b) a current statement of all assets and liabilities of the person;
    c) the location and description of the site of the hotel;
    d) in the case of an existing hotel, the number and description of bedrooms and beds and of the toilet facilities;
    e) the number and description of proposed new bedrooms and beds and the toilet facilities proposed to be established in connection with them;
    f) a description of each public room for the proposed new hotel or extension of an existing hotel;

[5] Regulation 2
[6] Regulation 2 – definition of "Minister"
[7]Regulation 2 – project means the building of a new hotel, the extension of an existing hotel or any refurbishment and renovation or buying of units in a hotel or integrated tourism development[7];
[8] Regulation 6

Back to content page

g) a detailed description of existing or proposed amenities;
h) h) a sketch plan showing in sufficient detail the site and lay out of the proposed hotel or extension and the amenities;
i) the estimate cost of the project;
j) if the project is to be carried out in stages, a description and the estimate cost, of each stage and details of the proposed timetable;
k) details of the proposed method of financing the project; and
l) any other information the CEO may require.

Consideration of Application for Provisional Approval

15. In approving an application for standard allowance, the Minister or CEO shall consider the following:
   (a) the requirements for the accommodation of travelers in the area concerned;
   (b) whether the proposed hotel or extension will make an adequate contribution to the requirements of the area concerned;
   (c) whether the proposed accommodation is of suitable size and standard for the area; and
   (d) whether adequate amenities[9] would be provided by the project.

Power to approve or reject the Provisional Application

16. The Regulations provides the Minister or the CEO the powers to approve or refuse an application made by a person availing standard allowance.[10]

17. An applicant whose application for standard allowance has been rejected, including a partially rejected application may [11]—
   (a) make a new application to the CEO;
   (b) amend and resubmit the original application to the CEO; or
   (c) appeal the decision of the CEO to the Minister.

18. Appealing the decision of the CEO to the Minister was brought about in the 2021-2022 National Budget. This means that an applicant who is dissatisfied with the decision of the CEO will have the right to appeal the decision of the CEO to the Minister.

Completion of project within the timeline[12]

19. If a hotel or integrated tourism development owner has been granted provisional approval on or after 01.01.2016, such a hotel owner or integrated tourism development owner must complete the project within 24 months from the date the provisional approval is granted.

[9] amenity includes features and facilities that contribute to the physical and material comfort of a tourist in a hotel or a resort;
[10] Regulation 5 – power to approve application
[11] Regulation 5(4) – inserted in the National Budget 2021-2022 by passing the Income Tax (Hotel Investment Incentive) (Amendment) Regulations 2021
[12] Regulation 7 – completion of project

20. The hotel owner or integrated tourism development owner who completes the project within the timeline of 24 months, may make an application to the Minister for final approval.

Final Approval

21. A person who has been granted provisional approval and has completed the project within the timeline may apply to the Minister for final approval[13].

22. An application for final approval must be made in writing and supported by the following—

a) fully audited final accounts showing the total cost of the project;
b) a completion certificate from the local authority; and
c) a final plan showing the site, layout and surrounding areas of the hotel.

23. If the Minister is not satisfied that:
(a) the company has completed the project within 24 months; or
(b) the company has complied with the conditions upon which provisional approval was granted;

the Minister may refuse to grant the final approval to the company[14].

24. Final approval may not be granted unless:
a) the Minister is satisfied that the hotel owner has in all respects completed the requirements of the project; and
b) the project is fully completed.

25. The Minister notifies the CEO in writing of the decision to approve or reject the final approval and the decision is then communicated to the applicant.

Investment Allowance

26. Once a final approval is granted by the Minister, the hotel owner or integrated tourism development owner will be eligible to an allowance which will be equal to an amount of taxable income that shall not be chargeable to tax[15]. The investment allowance is computed as 50% of the total capital expenditure incurred in the project.

27. The total capital expenditure incurred in the project shall be computed as follows :

Capital expenditure incurred in the project (including provision of amenities approved by the CEO as per the provisional approval)	XXX
Less: Cost of any land acquired for the project or refurbishment and renovation.	XX

Total Capital Expenditure	XXX
	====

[13] Regulation 7(2)
[14] Regulation 7(4)
[15] Regulation 9

28. Prior to the budget, a hotel owner meeting the requirements of standard allowance under part 2 of the Regulation was entitled to an allowance of an amount of taxable income equal to 25% of the total capital expenditure incurred in the project.

29. In National Budget 2021/2022, the standard allowance percentage has been increased to 50% from 25% of the total capital expenditure. The increased standard allowance will provide additional incentives to hotel owners.

30. If the amount computed under para 29 cannot be set off against the taxable income of the hotel owner for the first year of income after the commencement of operation, it must be carried forward and be set off against the taxable income of the next successive fiscal years of income of the hotel owner until the amount is wholly set off.

31. The investment allowance shall be given to Fiji residents and non-residents only if there is no shift of tax revenue to other countries.

32. If a project has been completed and -

(a) an investment allowance is more than the taxable income of the hotel owner from the hotel business; or

(b) the taxable income from the hotel business for the period ended on the next year of income after the project has been completed,

the balance must be carried forward and set off against the taxable income of that hotel business or the taxable income from the hotel premises, for the next successive years of income.

Procedure on Sale of Hotel

33. If the hotel owner or integrated tourism development owner sells the hotel property in respect of which an investment allowance has been wholly or partly set off against income, then depreciation under section 34 of ITA would apply in the same manner as would have been applicable to a depreciable asset.

34. It means that the vendor and purchaser of the hotel property would be required to apply section 34 in the same manner as if the transaction was a sale and purchase of a depreciable property in the normal course of events.

Short Life Investment – Part 3

35. **A short life investment package** means the various exemptions, concessions and allowances given under a short life investment.[16]

36. A **short life investment** means—

[16] Regulation 2

a) building of a new hotel or integrated tourism development with capital investment, (including the cost of support infrastructure and consultant fees but excluding the cost of land) over—
   i. $7,000,000, where the construction commences on or after 1 January 2009 and the construction is completed within 24 months from the date the provisional approval was granted; and
   ii. $250,000, where the construction commences on or after 1 April 2020 and the construction is completed within 24 months from the date the provisional approval was granted; or

b) the refurbishment and renovation of an existing hotel with capital investment (including the cost of support infrastructure and consultant fees but excluding the cost of land) over $2,000,000, where provisional approval is granted on or after 1 August 2021.

37. From 1 August 2023 the SLIP investment concession will only be available to companies conducting hotel businesses for the first time[17].

38. The SLIP concession for refurbishment and renovation of an existing hotel continues to be available for companies that obtained provisional approval in the period 1 August 2021 to 31 December 2023[18].

39. The standard allowance incentive is available in two stages:
   (a) Provisional approval; and
   (b) Final approval.

40. The Minister or the CEO has the powers to grant or refuse to grant a short life investment package to a company which has completed the relative project[19].

Provisional Approval

41. A company may apply in writing to the CEO for provisional approval to carry out a short life investment[20]. The application must set out the following:

   a) the name and registered office of the company;
   b) the names of all directors and shareholders of the company together, including shareholdings of the directors and shareholders;
   c) a recent statement of all assets and liabilities of the company;
   d) the location and description of the hotel site;
   e) the number and description of proposed bedrooms and beds and the toilet facilities;
   f) the description of each proposed public room;
   g) the detailed description of all proposed amenities, such as swimming pools, tennis courts, golf courses and recreation facilities;
   h) a sketch plan showing in sufficient detail the site and layout of the proposed hotel and its amenities;
   i) an estimate of the total cost of the short life investment;

[17] *Legal Notice No. 60 of 2023*
[18] *Legal Notice No. 60 of 2023*
[19] *Regulation 13*
[20] Regulation 15(1)

j) the description, and an estimate of the cost, of each individual stage of construction and details of the proposed timetable for completion of the short life investment;
k) details of the proposed method of financing the short life investment;
l) evidence of the company's ability to complete the short life investment;
m) estimates of the projected income from the new hotel;
n) the requirement of a hotel in the area;
o) the contribution of the short life investment into the area;
p) the nature and extent of short life investment; and
q) the project must provide evidence that proceeds from the sale of lots which form part of the integrated tourism development or new apartments is reinvested in that project.

42. The CEO may request for additional information in relation to the application or may prescribe requirements applicable to any particular area in Fiji on short life investment package[21].

43. Upon receipt of the application, the CEO may:
a) reject the application for provisional approval for short life investment; or
b) grant provisional approval to such application, with or without any condition.

Consideration of Application for Provisional Approval

44. In order to process the application for provisional approval, the CEO will take into account the following[22]:
a) the assets and liabilities of the company;
b) the nature and extent of the short life investment;
c) the requirements for hotel accommodation or integrated tourism development or new apartments in the area concerned;
d) whether the short life investment will adequately contribute to the requirements of the area concerned;
e) whether the proposed hotel or integrated tourism development or new apartments are a suitable size and standard for the area concerned;
f) whether adequate amenities would be provided as part of the proposed hotel; and
g) such other matters as the CEO may consider relevant to the desirability or otherwise of the short life investment for Fiji and the capability of the company to complete it.

45. In addition to the above, when considering an application for provisional approval, the CEO must be satisfied that[23]—
a) the application is for short life investment;
b) the company intends to complete and is capable of completing such short life investment; and
c) the short life investment will benefit the economic development of Fiji.

[21] Regulation 15(3)
[22] Regulation 14(3)
[23] Regulation 14(2)

Rejection of Application for Provisional Approval

46. An applicant whose application has been rejected, including a partially rejected application, may[24]—
    a) make a new application to the CEO;
    b) amend and resubmit the original application to the CEO; or
    c) **appeal the decision of the CEO to the Minister.**

47. In the National Budget 2021-2022, an appeal process was introduced when a person's application for short life investment under part 3 has been rejected. [25]

48. Effect of the amendment is that if a person is not satisfied with the decision of the CEO, the person will have the right to appeal the decision to the Minister.

Acceptance of Application for Provisional Approval – Exemption of duty on capital goods.

49. Once a provisional approval is granted, the importation of "capital goods" by the company which would be used in carrying out the short life investment, is exempt from all duties payable in respect of their importation[26].

    "Capital Goods" refers to raw materials, capital equipment, plant, machinery, spare parts and any other goods employed in the submarine network cable business but does not include furniture or motor vehicles[27].

50. The imposition of duty concession is legislated under Concession Code 235, 235A and 244 of Schedule 2 to the Customs Tariff Act 1986.

51. It is noted that even if a good that is being imported qualifies for the exemption, the applicant must satisfy the CEO that the goods cannot be produced locally. The CEO will then decide whether such goods are to be imported under the exemption[28].

    For example, a company which has been granted provisional approval intends to import fixtures of a particular specification for the construction of the hotel. The company must write to the CEO seeking approval for the importation of the fixtures demonstrating that the particular specification of fixtures is not and cannot be produced locally in Fiji.

    If such fixtures can be produced in Fiji, the CEO would not give approval for the importation of the item under the exemption. The company is required to obtain a letter from the manufacturer in Fiji to confirm that good of the required specification cannot be produced in Fiji.

52. Moreover, the exemption is only applicable to all duty payable on the importation, which includes fiscal and excise duty only. VAT would still apply on the importation of exempt goods[29].

[24] Regulation 14(4)
[25] Sub regulation (4) has been inserted by deleting sub regulation (4) and (5)
[26] Regulation 16(1)
[27] Regulation 2 – definition of capital goods
[28] Regulation 16(2)
[29] Regulation 16(3)

Exemption of duty under Concession Code – 235

53. The Concession Code 235 relates to concession granted to existing Hotels and Resorts.

Code No (1)	Owner (2)	Goods Eligible (3)	Fiscal (4)	Import Excise (5)	VAT (6)	Conditions (7)	Authority (8)
235	Existing hotels and Resorts	Building materials, furnishings and fittings, equipment including front office equipment, room amenities, kitchen and dining room equipment/ utensils and outdoor equipment	3%	Free	Depending on the type of good, the VAT applicable will be pursuant to Part 1 of Schedule2 to the Customs Tariff Act	(a) That the hotel/resort is registered as a hotel/ resort in Fiji; (b) That the hotel/resort renovation/refurbishment project is approved by the Comptroller; (c) That the hotel/resort seeking duty concession makes a written submission to the Comptroller with the details of works to be carried out with other relevant particulars; (d) That the Comptroller grants a written approval for approved goods to be cleared under duty concession; (e) That the goods are not manufactured and available locally; (f) That the goods will be used for the construction or equipping of the hotel/ resort and which are proved to the satisfaction of the Comptroller as not being manufactured in Fiji to a specification which he or she considers reasonable; (g) Any other conditions as the Comptroller may require from time to time; (h) That the goods are specifically for the purposes with which the concession is granted; (i) That the goods are not for re-sale; (j) That the disposal or use of the goods for purposes other than that for which concession is granted be subject to section 17 of the Customs Tariff Act 1986; (k) That this concession is valid from 1 August 2021 to 31 December 2022.	The person approved by the Comptroller

Back to content page

Eligible Goods

54. The goods that can be imported under the concession code are building materials, furnishings and fittings, equipment including front office equipment, room amenities, kitchen and dining room equipment/ utensils and outdoor equipment.

Conditions

55. The Comptroller provides that the application of the concessionary rates of import duty under Concession Code 235 is governed by the following conditions:

(a) That the hotel/resort is registered as a hotel/resort in Fiji;

(b) That the hotel/resort renovation/refurbishment project is approved by the Comptroller;

(c) That the hotel/resort seeking duty concession makes a written submission to the Comptroller with the details of works to be carried out with other relevant particulars;

(d) That the Comptroller grants a written approval for approved goods to be cleared under duty concession;

(e) That the goods are not manufactured and available locally;

(f) That the goods will be used for the construction or equipping of the hotel/ resort and which are proved to the satisfaction of the Comptroller as not being manufactured in Fiji to a specification which he or she considers reasonable;

(g) Any other conditions as the Comptroller may require from time to time;

(h) That the goods are specifically for the purposes with which the concession is granted;

(i) That the goods are not for re-sale;

(j) That the disposal or use of the goods for purposes other than that for which concession is granted be subject to section 17 of the Customs Tariff Act 1986; and

(k) That this concession is valid from 1 August 2021 to 31 December 2022.

Qualifying Criteria and Conditions

56. Concession code 235 is applicable to registered hotels and resorts and is not extended to apartment complexes.

57. The following documents are to be submitted when applying for concession; application letter, valid hotel licence, bill of quantity, invoice, approved plan (if applicable) and any other relevant documents that may be requested.

58. If the goods are being imported through a third party in Fiji such as another local company to be supplied to the hotel/resort, the details of this must be stated on the customs entry at the time of importation. The concession holder must be specifically stated on “BOX 9” of the customs entry. The purchase/sales order must be attached and confirmed by the requesting hotel/resort. The Tariff & Trade team can also be advised of the same for records and reference purposes.

59. The application is to be lodged with the Tariff and Trade Team on tariff&trade@frcs.org.fj. The standard processing time is 3-5 working days.

60. Initial approval for concession under Code 235 shall be granted in writing by the Comptroller while consecutive consignments thereafter can be facilitated at Port level when the goods arrive.

61. Building materials that are manufactured locally but are not available due to nationwide shortages shall be considered under Code 124 (x) of the CTA at the rates of 5% Fiscal, Free Import Excise and 15% VAT.

62. The items eligible under Code 124 (x) include steel pipes, galvanized pipes, stainless steel pipes, rectangular tubing, cement, timber/wood, reinforcing bars, veneer, plywood, nails and/or any other locally manufactured, goods proved to the satisfaction of the Comptroller as not being manufactured in Fiji to a specification which he or she considers reasonable provided the required industry standards are complied with.

63. Assessment for duty concession under Code 124 (x) will be made on a case-by-case basis and the applicant must consult with FRCS prior to the goods being imported into the country.

64. Condition (j) of concession Code 235 relates to disposal of goods imported under this concession. Section 17 of the CTA states that goods are liable for duty at any time within five years from the date of importation, if the goods under concession are disposed of or used for any purpose other than that for which the concession is granted.

65. The concession goods shall only become liable to duty if at any time within the 5 years of the date of importation or delivery from warehouse under duty concession, the imported goods have been:

(a) disposed of; or

(b) used for any other purpose other than that for the purpose concession from duty was granted for those goods.

66. For the purpose of this SIG, “Disposed of” would mean imported goods have been “sold or put to some other use, other than the purpose the concession was granted, within 5 years from the date of importation”.

67. A concessionaire shall write to the Comptroller, not less than 14 days before the date of disposal, or of the date of the goods being put to other use, to enable duty to be levied. The duty liability shall be collected on a depreciated value of the item which is the unused period of the 5 years. However, any duty amount which is less than $10.00 shall not be collected.

68. It is understood that there are certain items that may need to be replaced and replenished within a shorter period such as bed linens, curtains, towels, bathrobes, face towels, hand towels, napkins and the like due to normal “wear and tear”. Should these items be disposed of in a non-monetary manner i.e., the goods are offered as donation to a registered religious or a registered charitable organization, an approval will need to be obtained from FRCS through a written application stating the specific details such as the goods donated, to whom it was donated to, when was this imported, quantity and the current value etc.

69. In some situations, where a hotel is not able to instantly obtain certain goods which is under duty concession and the goods are available with another hotel/resort who wishes to assist, the

Back to content page

concessionaire may apply to the Comptroller to allow the goods under duty concession to be transferred to another concessionaire under Section 17 (5) of the Customs Tariff Act.

Exemption of duty under Concession Code – 235A

70. This concession is granted for establishment of the hotels and resorts approved under SLIP and for the construction or equipping of the hotel/resort.

Code No (1)	**Owner** (2)	**Goods Eligible** (3)	**Fiscal** (4)	**Import Excise** (5)	**VAT** (6)	**Conditions** (7)	**Authority** (8)
235A	New hotels and resorts granted approval under Short Life Investment Package (SLIP) as per the Income Tax (Hotel Investment Incentives) Regulations 2016	Building materials furnishings and fittings equipment including front office equipment, room amenities, kitchen and dining room equipment and utensils, specialised water sports, equipment e.g. water bikes and other similar goods that are not manufactured and available in Fiji	3%	Free	Depending on the type of good, the VAT applicable will be pursuant to Part 1 of Schedule2 to the Customs Tariff Act.	(a) That the hotel and resort is approved under SLIP; (b) That the actual commencement is within 2 years from approval issued by Comptroller; (c) That the goods will be used for the establishment of the project as per Income Tax (Hotel Investment Incentives) Regulations 2016 and which are proved to the satisfaction of the Comptroller as not being manufactured in Fiji to a specification which he or she considers reasonable (d) That the goods are used exclusively for the purpose of which the concession is granted; (e) That the goods are not for resale; (f) That the disposal or use of the goods for purposes other than that for which concession is granted be subject to section 17 of the Customs Tariff Act 1986;	The person approved by the Comptroller

Eligible Goods

71. The goods that can be imported under the concession code are capital equipment, plant, and machinery, including building materials, furnishings and fittings, room amenities, kitchen and dining room equipment and utensils and specialised water sports equipment, but does not include motor vehicles[30].

[30] Capital Goods definition – Regulation 2

Conditions

72. For duty concession under Code 235A, the following conditions must be met:

a) That hotel/resort seeking duty concession are approved under SLIP;
b) That the new hotel/resort project has been approved by CEO;
c) That the hotel/resort seeking duty concession makes a written submission to the CEO with the details of works to be carried out with other relevant particulars;
d) That the CEO grants a written approval for approved goods to be cleared under duty concession;
e) That the goods will be used for the construction or equipping of the hotel/resort and which are proved to the satisfaction of the CEO as not being manufactured in Fiji to a specification which he considers reasonable; and
f) Any other conditions as the CEO may require from time to time.

73. The goods imported under this concession are specifically to be used for the approved project and for the purposes this concession is granted;

74. This concession is for approved hotels/resorts to import Building materials, furnishings and fittings, equipment including front office equipment, room amenities, kitchen and dining room equipment, utensils and outdoor equipment that are not manufactured and available in Fiji.

Qualifying Criteria and Conditions

75. Only the approved new hotels and resorts would qualify for this concession.

76. The goods imported under this concession are solely to be used for the approved hotels and resorts project.

77. As per Note 3 of Part 3, Schedule 2 of the Customs Tariff, concession is claimed at the time of importation or at the time of clearance from bonded warehouses.

78. The disposal or use of approved goods in column (3) for the purposes other than that for which the concession is granted will be subject to the conditions as provided for in Section 17 of the Customs Tariff Act 1986.

79. As per Section 17 of the Customs Tariff Act, if within five years from the date of importation, the goods imported are disposed of or used for any other purpose other than that for which the concession is granted then, any tax or duty foregone is payable with the appropriate penalties.

80. When any conditions specified is not fulfilled, the CEO may disallow the concession and collect any tax or duty foregone with the appropriate penalties.

Exemption of duty under Concession Code – 244

81. This concession is available to companies or entities that are granted approval under new short life investment scheme.

Code No (1)	**Owner** (2)	**Goods Eligible** (3)	**Fiscal** (4)	**Import Excise** (5)	**VAT** (6)	**Conditions** (7)	**Authority** (8)
244	Companies or entities granted approval under New Short Life Investment Scheme	Capital goods as defined in the Income Tax (Hotel Investment Incentives) Regulations 2016	Free	Free	Depending on the type of good, the VAT applicable will be pursuant to Part 1 of Schedule2 to the Customs Tariff Act.	(a) That a provisional approval for SLIP is required from the Ministry of Finance (b) That the goods are not for sale and are used exclusively for purposes for which the concession is granted; (c) That the disposal or use of goods for purposes other than that for which the concession is granted be subject to the conditions laid down in Section 17 of the Customs Tariff Act.	The person approved by the Comptroller

Eligible Goods

82. The goods that can be imported under the concession code are capital equipment, plant, and machinery, including building materials, furnishings and fittings, room amenities, kitchen and dining room equipment and utensils and specialised water sports equipment, but does not include motor vehicles[31].

Conditions

83. As per Note 3 of Part3 of the Customs Tariff Act 1986, concession is claimed at the time of importation or at the time of clearance from bonded warehouses.

84. The goods imported under this concession are for the purpose for which the concession is granted, and not for sale.

85. All conditions specified in column (7) and any other conditions that may be specified by the CEO are to be fulfilled to qualify for this code.

86. The disposal or use of approved goods in column (3) for the purposes other than that for which the concession is granted will be subject to the conditions as provided for in Section 17 of the Customs Tariff Act 1986. As per Section 17 of the Customs Tariff Act, if within five years from the date of importation, the goods imported are disposed of or used for any other purpose other than that for which the concession is granted then, the goods are liable for duty.

87. When any of the conditions are not fulfilled after the goods are cleared from the Customs Control, the CEO may disallow the concession and any tax or duty foregone is payable with appropriate penalty.

[31] Capital Goods definition – Regulation 2

Back to content page

Governing Conditions

88. For duty concession under Code 244, the following conditions must be met:
   (a) That hotel/resort seeking duty concession obtain provisional approval from the Minister;
   (b) That the applicant seeking duty concession makes a written submission to the CEO with the details of works to be carried out with other relevant particulars;
   (c) That the CEO grants a written approval for approved goods to be cleared under duty concession;
   (d) That the goods will be used for the construction or equipping of the project and which are proved to the satisfaction of the CEO as not being manufactured in Fiji to a specification which he considers reasonable; and
   (e) Any other conditions as the CEO may require from time to time
   (f) The goods imported under this concession are specifically to be used for the approved project and the purposes this concession is granted; and

Qualifying Criteria and Conditions

89. Before capital goods are imported by the applicant, it is a condition of importation that the applicant must first provide proof that such goods cannot be produced locally to the satisfaction of the CEO, who decides whether such goods are to be imported.

90. The goods imported under this concession code must be used for the purposes for which the concession is granted;

91. The company (applicant) is required to submit a written application for provisional approval of the proposed project to the CEO. The application must set out and be supported by the following—

   (a) the name and registered office of the company;
   (b) the names of all directors and shareholders of the company, including the percentage of ownership of shares in the company;
   (c) a current statement of all assets and liabilities of the company;
   (d) the location and description of the proposed project;
   (e) a sketch plan showing the project;
   (f) the estimated cost of the project;
   (g) if the project is to be carried out in stages, a description and the estimated cost, of each stage and details of the proposed timetable;
   (h) evidence of the company's ability to undertake the project;
   (i) details of the proposed method of financing the project;
   (j) estimates of the projected income from the project; and
   (k) any other information the CEO may require.

92. FRCS may contact the applicant if additional information is required during the assessment process.

93. Upon assessment by the CEO, a response will be provided to the applicant accordingly.

94. As per Note 3 of Part3 of the Customs Tariff, concession is claimed at the time of importation or at the time of clearance from bonded warehouses.

95. The disposal or use of approved goods in column (3) for the purposes other than that for which the concession is granted be subject to the conditions as provided for in Section 17 of the Customs Tariff Act 1986. As per Section 17 of the Customs Tariff Act, if within five years from the date of importation,

Back to content page

the goods imported are disposed of or used for any other purpose other than that for which the concession is granted, any tax or duty foregone is payable with appropriate penalty.

96. When any conditions specified is not fulfilled, the CEO may disallow the concession and collect any tax or duty foregone with the appropriate penalties.

Short Life Investment [Timeline to complete]

97. If a company has been granted provisional approval, the company must complete the short life investment within 24 months from the date the provisional approval is granted[32].

98. If the company is unable to complete the construction of short life investment project within the 24-month timeline due to unforeseen circumstances or circumstances beyond the control of the company (natural disasters or unavailability of construction material in the market), the company may write to the Minister for an extension of the time under which the short life investment must be completed[33].

99. If an extension is granted under the Regulations, the company continues to enjoy the duty free concessions provided for the exemption of imported exempt goods during the extended period[34].

100. The application for extension must be made within 30 days before the end of the 24 months initially granted under the provisional approval. This means that the application must be made on the 23rd month within which the provisional approval is granted.

101. There is no timeline prescribed for the extension of the timeline for provisional approval, therefore the discretion for the extended timeline lies solely with the Minister.

102. If an extension is granted under the Regulations, the company continues to enjoy the duty free concessions provided for the exemption of imported exempt goods during the extended period.

Final Approval

103. A company which has been granted provisional approval and has completed the construction of short life investment within the timeline (including extended timeline) may apply to the Minister for final approval[35].

104. The application for final approval must be made in writing and supported by the following—

a) fully audited final accounts showing the total cost of the short life investment;
b) a completion certificate from the local authority; and
c) a final plan showing the site, layout and surrounding areas of the hotel[36].

105. If the Minister is satisfied that:
(a) the company has failed to complete the short life investment; or
(b) failed to comply with any conditions upon which provisional approval was granted;

[32] Regulation 17(1)
[33] Regulation 18(1)
[34] Regulation 18(2)
[35] Regulation 17(2)
[36] Regulation 17(3)

the Minister may refuse to grant the final approval to the company[37].

106. Additionally, the application for final approval shall not be granted unless—
   a) the Minister, after consulting the Minister responsible for Tourism, is satisfied that the company has in all respects completed the requirements of a short life investment; and
   b) the short life investment is fully completed.[38]

107. During the decision making process, the Minister may consult the Minister responsible for Tourism where the final approval is granted, with or without condition or there's rejection of the application[39].

108. The final decision of the Minister must be notified in writing to the applicant, Minister responsible for Tourism, and the CEO[40].

109. In the event that the application for final approval is rejected, the duty payable for the importation of exempt goods under the provisional approval immediately becomes due and payable by the company[41].

Effect of final approval

110. Once final approval is granted by the Minister, the company becomes entitled to the benefits of short life investment package (SLIP) i.e., various exemptions, concessions and allowances from the first day of commercial operation of the hotel or such other date as the Minister may specify[42].

111. At times the date of final approval may be after the date of commencement of commercial operation of hotel. In such cases, the tax holiday shall be effective from the first day of commencement of commercial operations of the hotel even though the date of final approval is at a later date.

112. The company will be entitled to claim benefits of SLIP in a year only after grant of final approval. It is also an essential requirement that at the time of applying as well as claiming the SLIP, the shareholders of the company must be substantially the same as the shareholders of the company when provisional approval was granted.

   To determine whether shareholders of the company are substantially the same, the below must be satisfied:
   a) not less than 51% of the voting power in and the right to receive dividends from the company is held by or on behalf of the same persons; or
   b) b) not less than 50% of the nominal value of the allotted shares in the company are held by or on behalf of the same persons.

   The company may apply in writing to the Minister for exemption from the requirement of final approval to claim SLIP and the substantial shareholding requirement. The Minister may at its discretion grant or refuse to grant the exemption.

[37] Regulation 17(5)
[38] Regulation 19
[39] Regulation 17(4)
[40] Regulation 17(7)
[41] Regulation 17(6)
[42] Regulation 20(1)

Exemption from tax

113. When the Regulations was introduced in 2016, the exemption from tax holiday was available if the capital investment made in the hotel was more than $7000,000. In the COVID 19 Response budget this limit was reduced significantly to a starting investment level of $250,000[43].

114. In the National Budget 2021-2022, the tax holiday criteria were further expanded to boost investment in the hotel construction sector including in the renovation and refurbishment.

Construction of hotel - Capital investment more than $7,000,000

115. The income of the company will be exempt from tax on profits derived from the operation of the hotel for a period of **10 years,** if –

   a) company has received the final approval;
   b) the capital investment in the hotel is more than $7,000,000; and
   c) the application[44] is **made prior to** January 1, 2017.

116. The income of the company will be exempt from tax on profits derived from the operation of the hotel for a period of **4 years,** if -

   a) the company has received the final approval;
   b) the capital investment in the hotel is more than $7,000,000; and
   c) the application[45] **is made on or** after January 1, 2017 but prior to July 31, 2021.

Effective 01.08.2021, if the investment is more than $7000,000, the tax holiday explained under para 128 shall apply.

Construction of hotel - Capital investment from $250,000 to $1,000,000

117. The income of the company will be exempt from tax on profits derived from the operation of the hotel for a period of 5 consecutive fiscal years, if

   a) the company has received the final approval;
   b) the capital investment in the hotel is from $250,000 to $1,000,000; and
   c) the application[46] is made on or after April 1, 2020.

Construction of hotel - Capital investment from $1,000,001 to $2,000,000

118. The income of the company will be exempt from tax on profits derived from the operation of the hotel for a period of 7 consecutive fiscal years, if:

   a) the company has received final approval,
   b) the capital investment in the hotel is from $1,000,000 to $2,000,000; and
   c) the application[47] is made on or after April 1, 2020.

[43] Regulation 21(2) inserted by LN 28 of 2020, reg 7, effective 1 April 2020
[44] Application refers to the date of making application for provisional approval
[45] Application refers to the date of making application for provisional approval
[46] Application refers to the date of making application for provisional approval
[47] Application refers to the date of making application for provisional approval

Back to content page

Construction of hotel - Capital investment more than $2,000,000

119. The income of the company will be exempt from tax on profits derived from the operation of the hotel for a period of 13 consecutive fiscal years, if:

  a) The company has received final approval;

  b) the capital investment in the hotel is more than $2,000,000; and

  c) the application[48] is made on or after April 1, 2020 but prior to July 31, 2021[49].

Construction of hotel - Capital investment from $2,000,001 to $40,000,000

120. The income of the company will be exempt from tax on profits derived from the operation of the hotel for a period of 13 consecutive fiscal years, if:

  a) the company has received final approval;

  b) the capital investment in the hotel is from 2,000,000 to $40,000,000; and

  c) the application[50] is made on or after August 1, 2021.

Construction of hotel - Capital investment more than $40,000,000

121. The income of the company will be exempt from tax on profits derived from the operation of the hotel for a period of 20 consecutive fiscal years:

  a) the company has received final approval;

  b) the capital investment in the hotel is more than $40,000,000; and

  c) the application is made on or after August 1, 2021

Refurbishment and Renovation

122. In the National Budget 2021-2022, exemption from tax has been extended to provide tax holidays when capital investments are made for the purposes of refurbishment and renovation of hotels[51].

123. **Refurbishment and renovation** means any substantial construction works (which the estimated cost per square metre of floor area is determined under regulation 9(5)) of an existing hotel building (excluding its mere repainting or redecorating) which:

  a) have the effect of restoring the hotel building to a sound and new state; or

  b) reconstruct, remodel, alter, upgrade or amend the interior of an existing hotel building so as to form new rooms or alter the sizes of existing rooms.

124. Accordingly, income of the company will be exempt from tax on profits derived from the operation of the hotel for a period of 5 consecutive fiscal years, if:

  a) the company has received final approval;

---

[48] Application refers to the date of making application for provisional approval

[49] Effective 01.08.2021, the 13-year tax holiday will be available on investments from $2000,001 to $40,000,000, as explained below.

[50] Application refers to the date of making application for provisional approval

[51] Regulation 21(3) inserted in Income Tax (Hotel Investment Incentives) (Amendment) Regulations 2021

Back to content page

b) the capital investment[52] in the hotel is more than $2,000,000; and

c) the application[53] is made on or after August 1, 2021.

125. The exemption from tax shall be effective from the date of final approval.

Miscellaneous Requirements

126. Other miscellaneous requirements pertaining to the short life investment is outlined as below –

Depreciation[54]

127. During the tax exemption period granted to a company[55], depreciation shall be calculated on the assets in the same manner as if the company was not in receipt of concessions under SLIP.

128. The written down value of depreciable assets shall be calculated at the end of the accounting period in which the last day of the tax-free period falls.

129. If a company elects to claim or not claim the depreciation, it will have to maintain that position for the whole of the tax free period.

Annual accounts[56]

130. A company entitled to benefits under SLIP shall be required to submit to the Minister the fully audited accounts, including other information that the Minister may require.

131. The fully audited accounts and any other information must be submitted within 6 months after the end of each financial year of the company.

Transferability of package[57]

132. There may be instances where a hotel to which SLIP has been grated is sold or to be sold.

133. In such cases, the purchaser or prospective purchaser may apply in writing to the Minister for the transfer to it of any remaining benefits of the SLIP.

Revocation of package[58]

134. There may be instances where the Minister may revoke incentives granted to a hotel owner under part 2 – Standard Allowance or to a company under part 3 – Short life investment.

135. This would usually occur in the following circumstances, where the hotel owner or company has:

a) breached of any condition of provisional or final approval;
b) failed to comply with requirements Part 2 or Part 3 of the Regulations; or

[52] Capital investment made in respect of refurbishment and renovation only
[53] Application refers to the date of making application for provisional approval
[54] Regulation 22
[55] Under Regulation 20
[56] Regulation 25
[57] Regulation 26
[58] Regulation 27

c) been convicted of an offence under any written law relating to taxation, customs or excise.

136. If the incentive has been revoked, any tax or duty foregone is payable. This means that any duty exempted for the importation of capital goods or any income tax exempted following the final approval becomes payable by the hotel owner or company.

Applicability of incentives

137. It needs to be noted that a hotel owner or a company is entitled to either Part 2- investment allowance or Part 3 - short life investment package in respect of the same project, but not both.[59]

Transitional[60]

138. An approval for hotel or integrated tourism development investment granted before 1 January 2016 will continue to ensure the benefits provided in accordance with the approval given.

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

[59] Regulation 28
[60] Regulation 29

Appendix 1 – Legislation

Income Tax (Hotel Investment Incentives) (Amendment) Regulations 2023

[LEGAL NOTICE NO. 60]

INCOME TAX ACT 2015

Income Tax (Hotel Investment Incentives) (Amendment) Regulations 2023

IN exercise of the powers conferred on me by sections 25A and 142 of the Income Tax Act 2015, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Hotel Investment Incentives) (Amendment) Regulations 2023.

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

Regulation 13 amended

2. Regulation 13 of the Income Tax (Hotel Investment Incentives) Regulations 2016 is amended by—

(a) renumbering regulation 13 as regulation 13(1); and

(b) after subregulation (1), inserting the following new subregulations—

"(2) Notwithstanding subregulation (1), the Minister or CEO, as applicable, must when considering an application, take into account that the company applying for a short life investment package is carrying out the short life investment project as its first business.

(3) For the purposes of subregulation (2), a short life investment project does not include the refurbishment and renovation of an existing hotel with capital investment (including the cost of support infrastructure and consultant fees but excluding the cost of land) over $2,000,000, where provisional approval is granted between 1 August 2021 and 31 December 2023.".

Made this 31st day of July 2023.

M. S. N. KAMIKAMICA
Deputy Prime Minister and

Acting Minister for Finance

INCOME TAX (HOTEL INVESTMENT INCENTIVES) REGULATIONS 2016

PART 1 GENERAL

[Regulation 1] Short title and commencement

(1) These Regulations may be cited as the Income Tax (Hotel Investment Incentives) Regulations 2016.
(2) These Regulations shall come into force on 1 January 2016.

[Regulation 2] Interpretation

In these Regulations, unless the context otherwise requires—

amenity includes features and facilities that contribute to the physical and material comfort of a tourist in a hotel or a resort;

capital goods, for the purpose of regulation 16, means capital equipment, plant, and machinery, including building materials, furnishings and fittings, room amenities, kitchen and dining room equipment and utensils and specialised water sports equipment, but does not include motor vehicles;

company means a company registered under the Companies Act 2015;

consultant fees include salaries, allowances, per diem and incidental expenses, food and accommodation, and any other fees that directly or indirectly relate to the short life investment, paid or provided to a local or an overseas consultant;

extension means any additional accommodation or additional amenity to an existing hotel;
hotel means any premises in which accommodation is supplied to or is available to be supplied to persons in exchange for money or other valuable consideration, including—

a) a villa for resort purposes;
b) a retirement resort constructed with facilities, services and amenities for retirement, including facilities for health services for such resort, and the villa or retirement resort will provide accommodation for guests for hire or reward or for the owner or occupier, for a period of not more than 12 weeks; or
c) for the purpose of Part 2, quarters constructed for the workers of the hotel in an island resort,
but for the purpose of Part 3, does not include quarters and any facility constructed for the residence of the owner or for managers or workers of the hotel;

hotel owner means the owner of a hotel who has been granted an approval under Part 2;

integrated tourism development means the development of a hotel and the subdivision and sale of residential lots, including the development of jetties, moorings, recreational facilities and other amenities;

island resort means any resort separated by 15km or more of sea from Viti Levu;

Minister means the Minister responsible for finance;

new apartments mean any premises with a minimum capital investment of $7,000,000 in which accommodation is supplied to or is available to be supplied to a person or persons in exchange for money or other valuable consideration and the apartment will provide accommodation for guests for hire or reward or for the owner or occupier, for a period of not more than 6 months;

project means the building of a new hotel, the extension of an existing hotel or any refurbishment and renovation or buying of units in a hotel or integrated tourism development;

provisional approval means a provisional approval granted under Part 2 or Part 3;

refurbishment and renovation means any substantial construction works (which the estimated cost per square metre of floor area is determined under regulation 9(5)) of an existing hotel building (excluding its mere repainting or redecorating) which
a) have the effect of restoring the hotel building to a sound and new state; or
b) reconstruct, remodel, alter, upgrade or amend the interior of an existing hotel building so as to form new rooms or alter the sizes of existing rooms;

short life investment means—
a) building of a new hotel or integrated tourism development with capital investment, (including the cost of support infrastructure and consultant fees but excluding the cost of land) over—
i. $7,000,000, where the construction commences on or after 1 January 2009 and the construction is completed within 24 months from the date the provisional approval was granted; and
ii. $250,000, where the construction commences on or after 1 April 2020 and the construction is completed within 24 months from the date the provisional approval was granted; or
b) the refurbishment and renovation of an existing hotel with capital investment (including the cost of support infrastructure and consultant fees but excluding the cost of land) over $2,000,000, where provisional approval is granted on or after 1 August 2021; and

short life investment package means the various exemptions, concessions and allowances given under a short life investment.

[Regulation 3] Objective
The purpose of these Regulations is to provide hotel investors with certainty about the way these Regulations are to be applied and to encourage hotels by the provision of financial inducements.

PART 2 STANDARD ALLOWANCE

[Regulation 4] Specification of particular requirements

The Minister may prescribe particular requirements applicable to any particular area of Fiji.

[Regulation 5] Power to approve application
(1) The Minister or CEO, as applicable, may—
a) reject the application;
b) approve the application, with or without any condition; or
c) approve a part of the application, with or without any condition, and reject other parts of such application.
[subreg (1) am LN 56 of 2017 reg 2, effective 1 August 2017]
(2) The Minister or CEO, as applicable, must take into account the following matters when determining an application under subregulation (1)—
a) the requirements for the accommodation of travellers in the area concerned;
b) whether the proposed hotel or extension will make an adequate contribution to the requirements of the area concerned;
c) whether the proposed accommodation is of suitable size and standard for the area;

d) whether adequate amenities would be provided by the project.
[subreg (2) am LN 56 of 2017 reg 2, effective 1 August 2017]
(3)
[subreg (3) rep LN 56 of 2017 reg 2, effective 1 August 2017]
(4) An applicant whose application has been rejected, including a partially rejected application, may—
(a) make a new application to the CEO;
(b) amend and resubmit the original application to the CEO; or
(c) appeal the decision of the CEO to the Minister.
[reg 5(4) amended LN 81 of 2021, reg 3, effective 1 August 2021]

[Regulation 6] Application for provisional approval
A person wishing to carry out a project may apply in writing to the CEO for approval of the proposed project, and such application must set out the following matters—
a) the name and details of the person;
b) a current statement of all assets and liabilities of the person;
c) the location and description of the site of the hotel;
d) in the case of an existing hotel, the number and description of bedrooms and beds and of the toilet facilities;
e) the number and description of proposed new bedrooms and beds and the toilet facilities proposed to be established in connection with them;
f) a description of each public room for the proposed new hotel or extension of an existing hotel;
g) a detailed description of existing or proposed amenities;
h) a sketch plan showing in sufficient detail the site and lay out of the proposed hotel or extension and the amenities;
i) the estimate cost of the project;
j) if the project is to be carried out in stages, a description and the estimate cost, of each stage and details of the proposed timetable;
k) details of the proposed method of financing the project;
l) any other information the CEO may require.
[reg 6 am LN 56 of 2017 reg 3, effective 1 August 2017]

[Regulation 7] Completion of project
(1) Any hotel or integrated tourism development owner who has been granted provisional approval on or after 1 January 2016 shall complete construction of the project within 24 months from the date of provisional approval.
[reg 7(1) amended LN 81 of 2021, reg 4, effective 1 August 2021]
(2) Subject to the other provisions of this regulation, where a hotel owner has been granted provisional approval and has completed the project, the hotel owner may apply to the Minister for final approval.
(3) An application under subregulation (2) shall be made in writing and supported by the following—
a) fully audited final accounts showing the total cost of the project;
b) a completion certificate from the local authority; and
c) a final plan showing the site, layout and surrounding areas of the hotel.

(4) Subject to regulation 8, the Minister shall refuse to grant final approval if the hotel owner has failed to complete the project or has failed to comply with any condition upon which provisional approval was granted.

[Regulation 8] Final approval if completed
(1) An application for final approval shall not be granted unless—
a) the Minister is satisfied that the hotel owner has in all respects completed the requirements of the project; and

b) the project is fully completed.
(2) The Minister must notify the CEO in writing of the decision made under subregulation (1).

[Regulation 9] Investment allowance
(1) Subject to subregulation (3), a hotel owner is entitled to the following allowance—
a) an amount of taxable income equal to 50% of the total capital expenditure incurred in the project including the provision of amenities approved by the CEO as per the provisional approval, but less the cost of any land acquired for the project or refurbishment and renovation, is not chargeable to tax;
b) so much of the amount not charged to tax under subregulation (1)(a) and which cannot be set off against the taxable income of the hotel owner for the first year of income after the commencement of operation or after the completion of the extension must be carried forward and be set off against the taxable income of the next successive fiscal years of income of the hotel owner until the amount is wholly set off.
(2) Notwithstanding subregulation (1), a hotel owner who has claimed an investment allowance under this regulation may claim depreciation under the Act and, for such purpose, the investment allowance must not be taken into account.
(3) In the case of Fijian residents or non-residents, the investment allowance shall only be given if there is no shift of tax revenue to other countries.
(4) Subject to this Part, if—
a) a project has been completed; and
b) an investment allowance under this regulation exceeds the taxable income of the hotel owner from the hotel business; or
c) the taxable income from the hotel business for the period ended on the next year of income after the project has been completed,
the balance must be carried forward and set off against the taxable income of that hotel business or the taxable income from the hotel premises, for the next successive years of income.
(5) For the purpose of the definition of refurbishment and renovation in regulation 2, the Minister may prescribe the cost per square metre of not less than 40% of the estimated cost per square metre of the floor area or a newly built equivalent hotel building.
(6) [Repealed]
[repealed by LN 28 of 2020, reg 6, effective 1 April 2020]

[Regulation 10] Procedure on sale of hotel
If the property of a hotel has been sold and the investment allowance in respect of such hotel has in accordance with regulation 7, been wholly or partly set off against income, the like consequences shall ensue as respects both the vendor and the purchaser with regard to section 34 of the Act, as would have ensued if the transaction were the sale and purchase of depreciable property in the normal course of events.

[Regulation 11] Procedure in case of loss [Repealed]
[repealed by LN 28 of 2020, reg 6, effective 1 April 2020]

[Regulation 12] Applicability of standard allowance [Repealed]
[repealed by LN 28 of 2020, reg 6, effective 1 April 2020]

PART 3 SHORT LIFE INVESTMENT

[Regulation 13] Power to grant short life investment package

The Minister or CEO, as applicable, may grant or refuse to grant a short life investment package to a company, which has completed a short life investment and has complied with this Part.

[Regulation 14] Provisional approval

(1) The CEO may—

a) reject the application for provisional approval for short life investment; or

b) grant provisional approval to such application, with or without any condition.

(2) The CEO shall not grant provisional approval under subregulation (1) unless the CEO is satisfied that—

a) the application is for short life investment;

b) the company intends to complete and is capable of completing such short life investment; and

c) the short life investment will benefit the economic development of Fiji.

(3) When considering an application for short life investment under subregulation (1), the CEO shall take into account the following matters—

a) the assets and liabilities of the company;

b) the nature and extent of the short life investment;

c) the requirements for hotel accommodation or integrated tourism development or new apartments in the area concerned;

d) whether the short life investment will adequately contribute to the requirements of the area concerned;

e) whether the proposed hotel or integrated tourism development or new apartments are a suitable size and standard for the area concerned;

f) whether adequate amenities would be provided as part of the proposed hotel;

g) such other matters as the CEO may consider relevant to the desirability or otherwise of the short life investment for Fiji and the capability of the company to complete it.

(4) An applicant whose application has been rejected, including a partially rejected application, may—

(a) make a new application to the CEO;

(b) amend and resubmit the original application to the CEO; or

(c) appeal the decision of the CEO to the Minister.

[Regulation 15] Application for short life investment

(1) A company (applicant) may, in writing, apply to the CEO for provisional approval to carry out a short life investment, setting out the following—

a) the name and registered office of the company;

b) the names of all directors and shareholders of the company together, including shareholdings of the directors and shareholders;

c) a recent statement of all assets and liabilities of the company;

d) the location and description of the hotel site;

e) the number and description of proposed bedrooms and beds and the toilet facilities;

f) the description of each proposed public room;

g) the detailed description of all proposed amenities, such as swimming pools, tennis courts, golf courses and recreation facilities;

h) a sketch plan showing in sufficient detail the site and layout of the proposed hotel and its amenities;

i) an estimate of the total cost of the short life investment;

j) the description, and an estimate of the cost, of each individual stage of construction and details of the proposed timetable for completion of the short life investment;

k) details of the proposed method of financing the short life investment;

l) evidence of the companys ability to complete the short life investment;

m) estimates of the projected income from the new hotel;

n) the requirement of a hotel in the area;

o) the contribution of the short life investment into the area;

p) the nature and extent of short life investment;

Back to content page

q) the project must provide evidence that proceeds from the sale of lots which form part of the integrated tourism development or new apartments is reinvested in that project.

[subreg (1) am LN 56 of 2017 reg 9, effective 1 August 2017]
(2)
[subreg (2) rep LN 56 of 2017 reg 9, effective 1 August 2017]
(3) The CEO may—
a) require the applicant to provide other information he or she may consider necessary in relation to the application; or
b) prescribe particular requirements applicable to any particular area of Fiji on short life investment package.
[subreg (3) am LN 56 of 2017 reg 9, effective 1 August 2017]

[Regulation 16] Effect of provisional approval
(1) When a provisional approval is granted, all capital goods, imported within the period specified in the definition of short life investment under regulation 2, by or on behalf of the company and used in the carrying out of the short life investment, shall be exempt from all duties payable in respect of their importation under concession codes 235, 235A and 244 of Schedule 2 to the Customs Tariff Act 1986.
[reg 16(1) amended LN 81 of 2021, reg 7, effective 1 August 2021]
(2) Before capital goods are allowed to be imported by a company, it is a condition of importation that the company must first provide proof that such goods cannot be produced locally to the satisfaction of the CEO, who shall decide whether such goods are to be imported.
[subreg (2) am LN 56 of 2017 reg 10, effective 1 August 2017]
(3) Nothing in this regulation shall apply to any tax payable under the Value Added Tax Act 1991.
[reg 16(4) del LN 58 of 2019, effective 1 August 2019]

[Regulation 17] Completion of short life investment
(1) If a company has been granted provisional approval, the company shall complete construction of the short life investment within 24 months from the date the provisional approval was granted.
[reg 17(1) amended LN 81 of 2021, reg 8, effective 1 August 2021]

(2) Subject to the other provisions of this regulation, where a company has been granted provisional approval and has completed the short life investment, the company may apply to the Minister for final approval.
(3) An application under subregulation (2) shall be made in writing and supported by the following—
a) fully audited final accounts showing the total cost of the short life investment;
b) a completion certificate from the local authority; and
c) a final plan showing the site, layout and surrounding areas of the hotel.
(4) Upon receiving an application under subregulation (2), the Minister may, after consulting with the Minister responsible for Tourism—
a) reject the application; or
b) give final approval to the application, with or without any condition.
(5) Subject to regulations 18 and 19, no approval shall be granted under this regulation if the Minister is satisfied that the company has failed to complete the short life investment or has failed to comply with any condition upon which provisional approval was granted.
(6) If an application for final approval is rejected, the duties exempted under this Part immediately become due and payable by the company.
(7) The Minister must, in writing, notify the following persons of the decision to reject or grant the application—
a) the applicant;
b) the Minister responsible for tourism; and
c) the CEO.
[reg 17 amended by LN 28 of 2020, reg 5, effective 1 April 2020]

[Regulation 18] Extension of time for Completion of construction

(1) If a company to which provisional approval has been granted is unable to complete construction of its short life investment within the period specified in the definition of short life investment in regulation 2 due to unforeseen circumstances or some other act beyond the control of the company, the company may apply in writing to the Minister to extend the time by which the short life investment must be completed.

[reg 18 amn LN 58 of 2019, effective 1 August 2019, reg 18(1) amended LN 81 of 2021, reg 9, effective 1 August 2021]

(2) If the Minister extends the time under subregulation (1), the company shall continue to enjoy the duty free concession provided for by regulation 16 during the extended period.

[Regulation 19] Final approval if completed

An application for final approval shall not be granted unless—

a) the Minister, after consulting the Minister responsible for Tourism, is satisfied that the company has in all respects completed the requirements of a short life investment; and

b) the short life investmentis fully completed.

[reg 18(b) amended by LN 28 of 2020, reg 6, effective 1 April 2020]

[Regulation 20] Effect of final approval

(1) The final approval entitles the company to the benefits of a short life investment package from the first day of commercial operation of the hotel or such other date as the Minister may specify.

(2) The company is not entitled to claim the benefits of a short life investment package in any year unless it has been granted final approval and the Minister is satisfied that the shareholders of the company are substantially the same as the shareholders of the company when provisional approval was granted.

(3) For the purposes of subregulation (2), the shareholders of the company shall be deemed not to be substantially the same as the shareholders on the date when provisional approval was granted unless—

a) not less than 51% of the voting power in and the right to receive dividends from the company is held by or on behalf of the same persons; or

b) not less than 50% of the nominal value of the allotted shares in the company are held by or on behalf of the same persons.

(4) Notwithstanding subregulations (2) and (3), the company may, in writing, apply for exemption from those regulations to the Minister who may grant or refuse to grant the exemption.

[Regulation 21] Exemption from tax

(1) If final approval is granted under this Part to a company, the income of the company is exempt from tax on profits derived from the operation of the hotel if the capital investment in the hotel is more than $7,000,000—

a) in the case of a company that applies prior to 1 January 2017, for a period of 10 years;

b) in the case of a company that applies on or after 1 January 2017, for a period of 4 years.

[reg 21 am LN 33 of 2017 reg 4, effective 1 January 2017]

(2) If final approval is granted under this Part to a company, the income of the company is exempt from tax on profits derived from the operation of the hotel if the capital investment in the hotel is—

a) from $250,000 to $1,000,000, in the case of a company that applies on or after 1 April 2020, for a period of 5 consecutive fiscal years;

b) from $1,000,001 to $2,000,000, in the case of a company that applies on or after 1 April 2020, for a period of 7 consecutive fiscal years;

c) more than $2,000,000, in the case of a company that applies on or after 1 April 2020, for a period of 13 consecutive fiscal years;

d) from $2,000,001 to $40,000,000, in the case of a company that applies on or after 1 August 2021, for a period of 13 consecutive fiscal years; and

e) more than $40,000,000, in the case of a company that applies on or after 1 August 2021, for a period of 20 consecutive fiscal years.
[reg 21(2) inserted by LN 28 of 2020, reg 7, effective 1 April 2020, reg 21 (2) amended LN 81 of 2021, reg 10, effective 1 August 2021]
(3) If final approval is granted under this Part to a company that applies on or after 1 August 2021 for refurbishment and renovation, the income of the company is exempt from tax on profits derived from the operation of the hotel if the capital investment in the hotel is more than $2,000,000 for a period of 5 consecutive fiscal years.
[reg 21(3) inserted LN 81 of 2021, reg 9, effective 1 August 2021]

[Regulation 22] Depreciation
(1) During the period from the date appointed by the Minister under regulation 20 to the end of the accounting period in which the last day of the tax-free period falls, such depreciation shall be written off the assets of that company in calculating its profits or gains as would have been available to it under the Act if the company were not in receipt of the concession provided by this Part, and the written down values of such depreciable assets at the end of the accounting period in which the last day of the tax-free period falls shall be calculated accordingly.
(2) For the purpose of subregulation (1), the company shall not be obliged to claim initial allowances but such election shall in that event continue for the whole of the tax free period.

[Regulation 23] Carry forward losses (Repealed)
[reg 23 rep LN 58 of 2019 reg 7, effective 1 August 2019]
[Regulation 24] Electricity generation (Repealed)
[reg 24 rep LN 56 of 2017 reg 11, effective 1 August 2017]

[Regulation 25] Annual accounts
Within 6 months after the end of each financial year a company which is entitled to the benefits of a short life investment package shall submit to the Minister fully audited accounts, including other information that the Minister may require.

[Regulation 26] Transferability of package
If the hotel in respect of which a short life investment package has been granted is sold or is to be sold, the purchaser or prospective purchaser may apply in writing to the Minister for the transfer to it of any remaining benefits of the short life investment package.

[Regulation 27] Revocation of package
The Minister or CEO, as applicable, may revoke any Part 2 or Part 3 investment if the company or hotel owner has
a) breached any condition of provisional or final approval;
b) failed to comply with any of the requirements of the Act, Part 2 or 3; or
c) been convicted of an offence under any written law relating to taxation, customs or excise.
[reg 27 am LN 56 of 2017 reg 12, effective 1 August 2017]

[Regulation 28] Applicability of incentives
A hotel owner or a company is only entitled to either Part 2 investment allowance or Part 3 short life investment package for the same project, but not both.

[Regulation 29] Transitional
Any approval for hotel or integrated tourism development investment granted before 1 January 2016 will continue to ensure the benefits provided

Back to content page