FIJI REVENUE AND CUSTOMS SERVICE

STANDARD INTERPRETATION GUIDELINE 2024-17

INCOME TAX ACT 2015 – WATER EXTRACTION INDUSTRY INCENTIVE

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

It is issued with the authority of the Chief Executive Officer ("CEO") of FRCS.

All legislative references in this SIG are to the Income Tax Act 2015, Customs Act 1986 and its Regulations, unless otherwise stated.

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

CONTENT

PURPOSE

1. The purpose of this SIG is to provide practical guidance on CEO's interpretation of the Income Tax (Water Extraction Incentive) Regulations 2023.

2. The regulations shall be in effect from 1 August 2023 to 31 July 2030.

INTRODUCTION

3. This incentive was designed to encourage investment in the natural water extraction and bottling industry by providing Income Tax Exemption for a period of 7 years. This is applicable to both new and existing water extraction and bottling businesses.

4. The Income Tax (Water Extraction Industry Incentive) Regulations 2023 is applied in conjunction with the Customs Act 1986 where it relates to the Water Resource Tax (WRT).

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

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

LEGISLATIVE ANALYSIS

7. Regulation 3 begins with defining the following terms:

   7.1 **Effective Period** refers to 1 August 2023 - 31 July 2030. The period in which the income exemption can be applied for companies approved under this incentive.

   7.2 **Water Extraction and Bottling Business** means business activities relating to the bottling of extracted water from its natural state, including artesian water, natural mineral and spring water, from an underground water table or deposit and emerging from a spring tapped at one or more natural or bore exits, including all activities related to any of the aforementioned activities.

   7.3 This includes existing and newly established businesses approved for the above-mentioned activities and levy of the water resource tax.

   7.4 **Water Resource Tax** means the tax imposed under Section 5(1) of the Water Resource Tax Act 2008 and as amended by the Water Resource Tax (Budget Amendment) Act 2023. This is discussed in a separate SIG. The applicable rates are as follows:

Volume of water extracted in a month (litres)	Applicable rate ($ per litre)
0 - 9,999,999	$0.01
10,000,000 and above	$0.195

INCOME

8. Section 14(2) (a) of the Income Tax Act 2015 states that exempt income is not included in the calculation of gross income.

9. Regulation 5 (1) provides that income derived from a Water Extraction and Bottling Business or any part relating to these activities will be exempt during the effective period.

10. This incentive is effective from 1 August 2023. An example of this is shown below:

Table A – Tax year ending 31 December		**Table B – Tax year ending 30 September**	
Tax Year	**Exempt period**	**Tax Year**	**Exempt period**
2023	August – December (5 months)	2023	August 2023 - September 2023 (2 months)
2024	January to December	2024	October 2023 - September 2024
2025	January to December	2025	October 2024 - September 2025
2026	January to December	2026	October 2025 - September 2026
2027	January to December	2027	October 2026 - September 2027
2028	January to December	2028	October 2027 - September 2028
2029	January to December	2029	October 2028 - September 2029
2030	January to July (7 months)	2030	October 2029 - July 2030 (10 months)

Example 1

YCo company is planning to set up a mineral water extraction and bottling business from 12 October 2027. The business will pay water resource tax and therefore qualifies for the WRT income tax incentive. What is the exempt period for YCo?

CEO's Position:

Its income from the mineral water extraction and bottling business is exempt from income tax in the period 12 October 2027 to 31 July 2030.

The table below shows the income tax exemption period if the company's tax year was 31 December and 30 September respectively.

Table A – Tax year ending 31 December		**Table B – Tax year ending 30 September**	
Tax Year	**Exempt period**	**Tax Year**	**Exempt period**
2027	12th October to December (3 months)	2027	N/A
2028	January to December	2028	12th October 2027 – September 2028 (12 months)
2029	January to December	2029	October 2028 - September 2029
2030	January to July (7 months)	2030	October 2029 – July 2030 (10 months)

11. The following paragraphs discuss how this incentive applies to the scenarios below:

(a) Sole qualifying business of a taxpayer using the calendar year

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ACo is in the business of extracting and bottling water only. Its fiscal year is January to December. The company's chargeable income for tax year 2023 is as follows-

	January-July	**August - December**
Sales	$2,000,000	$1,200,000
Tax Deductions	$600,000	$300,000
Chargeable Income	$1,400,000	$900,000

Will ACo be entitled to tax exemption on the chargeable income for tax year 2023? Assume it is not a listed company.

CEO's position: Since the amendment is effective from 1 August 2023, the exemption will be for 5 months only. ACo will still have to pay income tax on the chargeable income for the 7 months (January - July). Therefore, income tax applicable as follows:

January – July
Income Tax = 25% x $1,400,000
= $350,000

August to December
Income is exempt.

(b) Sole qualifying business of a taxpayer using a substituted tax year

BCo is in the business of extracting and bottling water only. It's fiscal year is November to October. The company's chargeable income for tax year 2023 is as follows-

	November 2022 - July 2023	**August 2023 – October 2023**
Sales	$5,000,000	$1,000,000
Tax Deductions	$3000,000	$500,000
Chargeable Income	$2,000,000	$500,000

Will BCo be entitled to tax exemption on chargeable income for tax year 2023? Assume it is not a listed company.

CEO's position: Since the amendment is effective from 1 August 2023, the exemption will be for 3 months only. BCo will still have to pay income tax on the chargeable income for the 9 months (November - July). Therefore, income tax is applicable as follows –

November 2022 – July 2023
Income Tax = 25% x $2,000,000
= $500,000

August 2023 to October 2023
Income is exempt.

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(c) Qualifying business of a taxpayer with mixed sales

JCo is in the business of extracting and bottling water and also runs a supermarket business. Its fiscal year is January to December. The company's profit for tax year 2023 is as follows-

Water Extraction and Bottling Business

	January 2023 - July 2023	**August 2023 – December 2023**
Sales	$2,000,000	$1,000,000
Tax Deductions	$1,000,000	$500,000
Chargeable Income	$1,000,000	$500,000

Supermarket Business

	January- December
Sales	$10,000,000
Tax Deductions	$7,000,000
Chargeable Income	$3,000,000

Will JCo be entitled to tax exemption on total chargeable income for tax year 2023? Assume it is not a listed company.

CEO's Position: The amendment is effective from 1 August 2023 and the exemption is only for the income earned from the water extraction and bottling business. JCo's other income will still be taxable. JCo's water extraction and bottling business income will be taxable for 7 months (January - July) and it will be exempt for 5 months (August - December) Therefore, income tax will be applicable as follows –

Water Extraction and Bottling Business

<u>January - July</u>
Income Tax = 25% x $1,000,000
= $250,000

<u>August to October</u>
Income is exempt.

Supermarket Business
Income Tax = 25% x $3,000,000
= $750,000

Total Tax = Income Tax for Bottling Business + Income Tax for Supermarket Business
= $250,000 + $750,000
= $1,000,000

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(d) Sole qualifying business of a company listed on the South Pacific Stock Exchange (SPX) [1]

NCo is in the business of extracting and bottling water only. Its fiscal year is January to December. The company's chargeable income for tax year 2023 is as follows-

	January-July	**August - December**
Sales	$10,000,000	$4,000,000
Tax Deductions	$7,000,000	$3,000,000
Chargeable Income	$3,000,000	$1,000,000

Will NCo be entitled to tax exemption on total profit for tax year 2023?

CEO's Position: Since the amendment is effective from 1 August 2023, the exemption will be for 5 months only. NCo will still have to pay income tax on the chargeable income for the 7 months (January - July). Therefore, income tax will be applicable as follows –

January – July
Income Tax = 15% x $3,000,000
= $450,000

August to December
Income is exempt.

EXPENSES

12. Expenses relating to the income derived from water extraction and bottling activities during the effective period will not be an allowable deduction[2].

13. Deductions shall not be carried forward to a period after the end of the effective period[3].

Example 2
NCo's income and expenses from a qualified extracting and bottling water business for tax year 2023 is as follows:

	January-July	**August - December**
Sales	$10,000,000	$4,000,000
Tax Deductions	$7,000,000	$3,000,000
Chargeable Income	$3,000,000	$1,000,000

Will NCo be entitled to claim deductions on expenses incurred in earning total profit for tax year 2023?

CEO's Position:
The following applies:

- January – July allowable deductions = $7,000,000
- August to December allowable deductions = $0, as income is exempt

Example 3

[1] LN 55 Income Tax (Rates of Tax and Levies) (Amendment) Regulations 2023
[2] Regulation 5(2) of the Income Tax (Water Extraction Industry Incentive) Regulations 2023
[3] Regulation 5(3) of the Income Tax (Water Extraction Industry Incentive) Regulations 2023

JCo is in the business of extracting and bottling water and also runs a supermarket business. Its fiscal year is January to December. The company's profit for tax year 2023 is as follows-

Supermarket Business

	January- December
Sales	$10,000,000
Tax Deductions	$7,000,000
Chargeable Income	$3,000,000

Water Extraction and Bottling Business

	January – July	**August - December**
Sales	$2,000,000	$1,000,000
Tax Deductions	$1,000,000	$500,000
Chargeable Income	$1,000,000	$500,000

Will JCo be entitled to claim deductions on expenses incurred in earning total profit for tax year 2023?

CEOs Position:
Supermarket Business
January to December allowable deductions = $7,000,000

Water bottling business
- January – July allowable deductions = $1,000,000
- August to December allowable deductions = $0, as income is exempt

14. Any loss incurred by the bottling business during the period is not an allowable deduction against other income.

Example 4
JCo is in the business of extracting and bottling water and also runs a supermarket business. Its fiscal year is January to December. The company's water bottling operations closed temporarily for 7 months during the tax year 2027. As a result, the bottling business suffered a loss.

Supermarket Business

	January- December
Sales	$10,000,000
Tax Deductions	$7,000,000
Chargeable Income	$3,000,000

Water Extraction and Bottling Business

	January - December
Sales	$500,000
Deductions	$800,000
Chargeable Income/ (Loss)	($300,000)

CEO's Position: Since the bottling business income and expenses is exempt, the $300,000 loss incurred cannot be used to reduce chargeable income from the supermarket in the current year (tax year 2027). Therefore, the chargeable income for JCo for the year ended 2027 will be $3,000,000.

15. In general, business losses can be carried forward for 8 consecutive tax years. A loss incurred by a business entitled to exemptions cannot be carried forward when the exemption period expires.

Example 5
JCo is in the business of extracting and bottling water and also runs a supermarket business. Its fiscal year is January to December. The company's water bottling operations closed temporarily for 7 months during the tax year 2027. As a result, the bottling business suffered a loss. Can JCo carry forward the business loss?

CEO's Position:
This will be applied as follows:

Tax Year	Profit /(Loss)	Taxable income	Loss carried forward
2027	(300,000)	0	0
2028	2,000,000	0	0
2029	1,800,000	0	0
2030	2,300,000	0	0
2031	$2,800,000	$2,800,000	

CAPITAL EXPENDITURES

16. Any capital expenditures incurred in connection with a Water and Bottling Business, or any part thereof shall not be treated as depreciable assets under Section 31 of the Act[4].

17. In addition, depreciation or amortisations deductions for such capital expenditures shall not be carried forward to a period after 31 July 2030[5].

18. Since exempt income will not be included in gross income, depreciation cannot be claimed as a deduction during the effective period. However, for accounting purposes, businesses will continue to depreciate the capital asset and determine the written down values until the end of its useful life.

Example 6
ABC qualifies for the 7-year exemption. Its tax year is 31st March. Water filter apparatus costing $60,000 is purchased on 1 April 2028. ABC's accounting depreciation is 20%, which is also the rate for tax purposes. The tax depreciation rate is 20%, therefore annual tax depreciation is 12,000 (60,000 x 20%). How will ABC account for tax depreciation after the exemption period?

CEO's Position is tabled below:

	Accounting depreciation				Tax depreciation	
Exemption period	**Period**	**Tax Year**	**Annual depreciation allowance**	**WDV**	**Annual depreciation allowance**	**WDV**
	01/04/21 - 31/03/22					
	01/04/22 - 31/03/23					
Start	01/04/23 - 31/03/24					
Y1	01/04/24 - 31/03/25					
Y2	01/04/25 - 31/03/26					
Y3	01/04/26 - 31/03/27					
Y4	01/04/27 - 31/03/28	2027	12,000	48000	0	

[4] Regulation 5(4) of the Income Tax (Water Extraction Industry Incentive) Regulations 2023
[5] Regulation 5(5) of the Income Tax (Water Extraction Industry Incentive) Regulations 2023

Y5	01/04/28 - 31/03/29	2028	12,000	36000	0	
Y6	01/04/29 - 31/03/30	2029	12,000	24000	0	
End	01/04/30 - 31/03/31	2030	12,000	12000	8000*	
	01/04/31 - 31/03/32	2031	12000	0	12000	
	01/04/32 - 31/03/33		0	0	0	

* Depreciation deduction available from 1 August 2030 (8/12 months of the 2030 tax year)

Example 7

XYZ qualifies for the 7-year exemption. XYZ has a 31 December tax year. On 1 January 2020, XYZ completed the construction of a building, which it commenced using on the same date in its Water Extraction and Bottling Business. Cost of construction $120,000 The tax depreciation rate is 4% SL.

	Accounting depreciation				Tax depreciation	
Exemption period	**Tax period**	**Tax Year**	**Annual depreciation allowance (4%)**	**WDV**	**Depreciation allowance**	**WDV**
		2020	4800	115200	4800	
		2021	4800	110,400	4800	
		2022	4800	105600	4800	
Start	01/08 - 31/12/23	2023	4800	100,800	2800*	
Y1	01/01 - 31/12/24	2024	4800	96,000	0	
Y2	01/01 - 31/12/25	2025	4800	91200	0	
Y3	01/01 - 31/12/26	2026	4800	86400	0	
Y4	01/01 - 31/12/27	2027	4800	81600	0	
Y5	01/01 - 31/12/28	2028	4800	76800	0	
Y6	01/01 - 31/12/29	2029	4800	72000	0	
End	01/01 - 31/07/30	2030	4800	68800	2000*	
	01/01 - 31/07/3	2031	4800	64000	4800	

* Depreciation deduction available for part of the year from 01/01 to 31/07/2023 - 7/12 months of the 2023 tax year and from 01/08/2030 to 31/12/2030 - 5/12 months of the 2030 tax year.

19. Only income directly related to the water bottling business is exempt. Taxpayers conducting a qualifying business will be required to report taxable and exempt income correctly.

Example 8

XCo has a qualifying business. It exports bottled water to the US. During the last financial year, XCo exported $100,000 worth of bottled water. Local sales was $20,000.

At the time of sending the invoices, 1 FJD was equivalent to 1.3 USD. When the payments for the invoices were received, 1 FJD was equivalent to 1.2 US dollars. The gains from the currency conversions was calculated as follows:

Sales to US
= (1.3 x 100,000) – (1.2 × 100,000)
= 130,000 – 120,000
= $10,000 (Foreign exchange gain)

How will foreign exchange gains and interest income be treated?
XCo's calculation of tax payable:

Sales	$110,000
Interest income	$2,000
Foreign exchange gains	$10,000
Gross income	$122,000

CEOs position:

Sales	$110,000
Interest income	$2,000
Foreign exchange gains	$10,000
Exemption	$120,000
Gross income (Interest)	$2,000

20. For further information and clarification regarding this SIG, please email us at tipu@frcs.org.fj

[LEGAL NOTICE NO. 62]

INCOME TAX ACT 2015

Income Tax (Water Extraction Industry Incentive) Regulations 2023

IN exercise of the powers conferred on me by sections 20(1) and 142 of the Income Tax Act 2015, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Water Extraction Industry Incentive) Regulations 2023.

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

Laws to be read together

2. These Regulations shall *inter alia* be read together in conjunction with the Customs Act 1986 in so far as it relates to the Water Resource Tax.

Interpretation

3. In these Regulations, unless the context requires otherwise—

"Act" means the Income Tax Act 2015;

"Effective Period" means the period of time set forth in regulation 6 of these Regulations;

"Water Extraction and Bottling Business" means business activities relating to the bottling of extracted water from its natural state, including artesian water, natural mineral and spring water, from an underground water table or deposit and emerging from a spring tapped at one or more natural or bore exits, including all activities related to any of the aforementioned activities; and

"Water Resource Tax" means the tax imposed under section 5(1) of the Water Resource Tax Act 2008 and as amended by the Water Resource Tax (Budget Amendment) Act 2023.

PART 2—WATER EXTRACTION INDUSTRY INCENTIVE

Objective

4. The purpose of these Regulations is to encourage investment in the Water Extraction and Bottling Business by the provision of financial inducements in the form of an exemption from income tax under the Act, to provide certainty about the taxation of activities that are subject to the Water Resource Tax, and to coordinate the imposition of the Water Resource Tax and the Act on the same items of income.

Exemption from tax

5.—(1) Notwithstanding any other provisions in the Act or in these Regulations, any income derived in connection with a Water Extraction and Bottling Business or any part thereof shall be exempt income for the purposes of the Act and these Regulations, and such income shall not be subject to income tax under the Act.

(2) To the extent any expenses are allocable or properly attributable to the income

described in subregulation (1), such expenses shall not be allowed as a deduction under the Act.

(3) Solely for the purposes of clarification of subregulation (2), no such deductions shall be carried forward to a period after the end of the Effective Period.

(4) To the extent any capital expenditures are incurred in connection with a Water Extraction and Bottling Business or any part thereof, such capital expenditures shall not be depreciable assets under section 31 of the Act.

(5) Solely for the purposes of clarification of subregulation (4), no depreciation or amortisation deductions for any such capital expenditures shall be carried forward to a period after the end of the Effective Period.

Effective period

6. These Regulations shall be effective beginning 1 August 2023 and shall cease to apply after 31 July 2030.

Made this 31st day of July 2023.

[LEGAL NOTICE NO. 63]

WATER RESOURCE TAX ACT 2008

Water Resource Tax (Amendment) Regulations 2023

IN exercise of the powers conferred on me by section 22 of the Water Resource Tax Act 2008, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Water Resource Tax (Amendment) Regulations 2023.

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

Schedule amended

2. The Schedule to the Water Resource Tax Regulations 2017 is amended by deleting "$0.18" wherever it appears and substituting "$0.195".

Made this 31st day of July 2023.

B. SECTION 5(1) OF THE WATER RESOURCE TAX ACT 2008

5(1) Subject to the provisions of this Act, a tax at the rate or rates prescribed by regulations made under this Act shall be levied upon the extraction of water in its natural state, including artesian water, natural mineral and spring water, from an underground water table or deposit and emerging from a spring tapped at one or more natural or bore exits.

C. SECTION 14(2) (a) OF THE INCOME TAX ACT 2015

(2) Income is not included in gross income if it is—

(a) exempt income; or

(b) subject to tax under section 9, 10, or 11.

D. INCOME TAX (RATES OF TAX AND LEVIES) (AMENDMENT) REGULATIONS 2023

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Rates of Tax and Levies) (Amendment) Regulations 2023.

(2) These Regulations comes into force on 1 August 2023 except for regulation 3*(a)* which comes into force on 1 January 2024.

(3) In these Regulations, the Income Tax (Rates of Tax and Levies) Regulations 2016 is referred to as the "Principal Regulations".

Regulation 10 amended

2. The Principal Regulations are amended by deleting regulation 10 and substituting the following—

"*Savings and transitional for companies listed on the South Pacific Stock Exchange*

10.—(1) The tax rate of 10% applicable to a company listed on the South Pacific Stock Exchange for 7 years or less applies until the end of the company's tax year 2022.

(2) The tax rate of 15% applies to a company listed on the South Pacific Stock Exchange until the end of the company's 7th tax year from the date of listing.

(3) The tax rate of 25% applies to a company from the company's tax year 2023, provided that the company has been listed on the South Pacific Stock Exchange for more than 7 tax years.".

Schedule amended

3. The Schedule to the Principal Regulations is amended by—

(a) deleting paragraph 1 and substituting the following—

"(1) The rates of Income Tax for individuals are—

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Resident Individuals

Chargeable Income $	*Income Tax $*
0 – 30,000	Nil
30,001 – 50,000	18% of excess over $30,000
50,001 – 270,000	$3,600 + 20% of excess over $50,000
270,001 – 300,000	$47,600 + 33% of excess over $270,000
300,001 – 350,000	$57,500 + 34% of excess over $300,000
350,001 – 400,000	$74,500 + 35% of excess over $350,000
400,001 – 450,000	$92,000 + 36% of excess over $400,000
450,001 – 500,000	$110,000 + 37% of excess over $450,000
500,001 – 1,000,000	$128,500 + 38% of excess over $500,000
1,000,001 +	$318,500 + 39% of excess over $1,000,000

Non-resident Individuals

Chargeable Income $	*Income Tax $*
0 – 30,000	20% of excess over $0
30,001 – 50,000	$6,000 + 20% of excess over $30,000
50,001 – 270,000	$10,000 + 20% of excess over $50,000
270,001 – 300,000	$54,000 + 33% of excess over $270,000
300,001 – 350,000	$63,900 + 34% of excess over $300,000
350,001 – 400,000	$80,900 + 35% of excess over $350,000
400,001 – 450,000	$98,400 + 36% of excess over $400,000
450,001 – 500,000	$116,400 + 37% of excess over $450,000
500,001 – 1,000,000	$134,900 + 38% of excess over $500,000
1,000,001 +	$324,900 + 39% of excess over $1,000,000

(b) in paragraph 3—

(i) in subparagraph *(b)*, deleting "10%" and substituting "15% for tax year 2023 onwards"; and

(ii) in subparagraph *(c)*, deleting "20%" and substituting "25% for tax year 2023 onwards"; and

(c) in paragraph 4, deleting "20%" and substituting "25% for tax year 2023 onwards".

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