PRACTICE STATEMENT No. 62/2017
Issued: 27/10/17

SUBJECT	**Fiji Revenue and Customs Service** 2017 Tax Amnesty - Waiver of penalties on tax returns and payments that were overdue on or before 1 July 2017
DATE OF EFFECT	30 June 2017 – 31 December 2017
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCE	Section 48C *Tax Administration Act* 2009 Section 6 *Income Tax Act* 2015
PRACTICE COORDINATOR	Director Revenue Management

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INTRODUCTION

1. This Practice Statement explains how the tax amnesty for late returns and payments is administered and the procedures for handling the flow of returns, information and enquiries throughout the amnesty period. This Statement is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Revenue and Customs Service.

2. The tax amnesty is intended to assist qualifying persons who have not submitted tax returns and /or tax payments which were due and payable by 30 June 2017, to get their tax affairs in order, voluntarily, during the period 30 June 2017 to 31 December 2017.

3. A qualifying person must be a tax resident or where the person is an individual, a tax resident and Fiji citizen. The person's annual gross turnover must be less than $1.5 million.

4. The amnesty covers returns and payments for all tax types; e.g Income tax, Value Added Tax (VAT), Service Turnover tax, Environment and Climate Adaptation Levy (formerly known as Environmental Levy). Fringe Benefit Tax, Capital Gains Tax, Stamp Duty and Levies.

5. The benefit for qualifying persons participating in the tax amnesty program are -
    - waiver of late lodgment penalty;
    - waiver of late payment penalty;
    - waiver of interest penalty.

   The amnesty does not apply to audit penalties.

6. The CEO will waive all applicable penalties if:
    - a tax return for a period prior to 1 July 2017 is lodged in the period 30 June 2017 to 31 December 2017 and any tax payable is settled by 31 December 2017; or
    - any tax payable for a tax period prior to 1 July 2017 that was overdue on 30 June 2017 is paid by 31 December 2017.

7. Where a qualifying person who has not participated in this amnesty program is selected for audit or makes a voluntary disclosure after the amnesty period, the provisions relating to imposition of penalties under the Tax Administration Act will apply.

LEGISLATIVE BASIS

8. Section 48C of the Tax Administration Act 2009 provides for the granting of a tax amnesty in the period 30 June 2017 to 31 December 2017. It states –

Waiver of penalty for failure to file a tax return or payment of tax

48C. – (1) Notwithstanding any other provision in this Decree, any qualifying person who has failed to file a tax return and pay chargeable tax under any tax law for any taxable period prior to 1 July 2017 shall be deemed to have obtained amnesty, if the qualifying person on whom the penalty is imposed files a tax return and pays such tax within the amnesty period.

(2) For the purpose of this section, unless the context otherwise requires –
"amnesty" means the waiver of any penalty payable in respect of any failure to file a tax return and pay any chargeable tax required under tax law for any taxable period prior to 1 July 2017;
"amnesty period" means the period commencing on and from 30 June 2017 to 31 December 2017;

"qualifying person" means a person—

(a) who is a tax resident and Fijian citizen;

(b) who is required to file a tax return under any tax law; and

(c) whose annual gross turnover is less than $1.5 million."

9. Person is defined in Section 2 of the TAA as follows:

""person" means an individual, company, partnership, body of persons, trust, estate, government, political subdivision of a government, statutory bodies or public international organisation; "

10. The terms 'resident' and Fiji citizen are defined in Section 2 of the Income Tax Act 2015. Further guidance is given in the following paragraphs.

APPLICATION

11. The tax amnesty is available to all persons that are Fiji residents including resident individuals who are also Fiji citizens. The person's annual gross turnover must be less than $1.5 million.

12. The residency rules for companies, partnerships and trusts are as follows:

(1) A company is a resident if it is incorporated, formed or settled in Fiji or any part of its central management and control is located in Fiji.

(2) A partnership is a resident partnership if the partnership is formed in Fiji any part of its central management and control is located in Fiji.

(3) A trust is a resident if the trust was settled or established in Fiji, or it is the estate of a deceased "resident individual" or if a trustee of the trust is a resident person.

13. An individual must be a resident and a Fiji citizen. An individual is considered to be a resident of Fiji if one of the following four alternate tests contained in Section 6 (1) is satisfied:
    (a) an individual who resides in Fiji;
    (b) an individual who is domiciled in Fiji and does not have a permanent place of abode outside Fiji;
    (c) an individual who is present in Fiji for 183 days in any 12-month period; and
    (d) an employee of the Government of Fiji posted abroad.

    (1) "Fiji citizen" means an individual who is a citizen under the *Citizenship of Fiji Act* 2009 which provides that citizenship may be acquired by:
        (i) birth ;
        (ii) registration; or
        (iii) naturalisation.

14. Both conditions must be satisfied therefore this will not apply to a person who is a resident for tax purposes but is not a Fiji citizen.

15. The tax amnesty will apply on all returns and payments relating to periods that became due or payable on or before 30 June 2017.

Example 1

Jack operates a restaurant. He has not lodged income tax returns for 3 years. His annual gross turnover for the tax years 2014, 2015 and 2016 is as follows:

2014 $1.3m
2015 $1.6m
2016 $1.4m
2017 $1.7m (estimated)

Jack will qualify for waiver of penalties imposed on late income tax returns and late payments for the tax years 2014 and 2016 only as his gross annual turnover for those periods was less than $1.5m.

Example 2

Using the details in Example 1 above

1. *Jack is an accountable person for VAT.*
2. *For STT/ECAL purposes Jack is an accountable person for the tax years 2015 and 2017. The registration threshold for restaurants was $1.5m in 2015 and $1.25m with effect from 1 January 2016.*
3. *He is also registered for PAYE and required to lodge - Employer Monthly Schedules [EMS] from 2014-2017*

The tax amnesty will apply as follows:

1. *Jack will be granted amnesty and waiver of penalties on VAT returns and payments for the taxable periods in 2014 - May 2017 as his gross annual turnover for those tax periods was less than $1.5m.*
2. *For STT/ECAL purposes:*

   2014 – not required to register for STT as threshold was below $1.5m
   2015 - not a qualifying person for amnesty purposes
   2016 – eligible for amnesty and waiver of penalties
   2017 - not a qualifying person for amnesty purposes

3. *For EMS purposes, Jack is eligible for amnesty and waiver of penalties on EMS lodged and paid for the years 2014-May 2017*

Example 3

> *Sami's VAT return for the taxable period May, June and July 2017 were lodged in October 2017. Late lodgement and late payment penalty was included in the assessment of tax payable. He applied for tax amnesty.*
>
> *Amnesty will only be granted for the May return which was due on 30 June 2017*.
>
> *The returns for June and July were due on 31 July and 31 August respectively, therefore do not qualify for amnesty.*
> *However, Jack can request for a review of penalties under the general rules available under the TAA.*
>
> *Note: Section 48 (2) provides that "amnesty" means the waiver of any penalty payable in respect of any failure to file a tax return and pay any chargeable tax required under tax law for any taxable period prior to 1 July 2017;*

PROCESS

How to apply for tax amnesty

16. A person wishing to take advantage of the benefits available under the Tax Amnesty Program is required to apply to the CEO in writing. The application form to use is titled "2017 Specific Tax Amnesty Application for Penalty Waiver".

17. The taxpayer must make full and accurate disclosures and ensure that any other information required by the CEO is submitted on or before 31 December 2017.

18. Applications can be sent by post, emailed or hand delivered to any of our Customer Enquiry Centers Fiji wide. It can be submitted through tax agents as well.

19. Applicants can get a copy of the completed application form stamped for their records. Online applications, once received will be acknowledged via email.

Approval process

20. Once an application is received it will be processed in accordance with internal standard operating procedures.

21. Applications will be assessed by the Tax Amnesty Admin Committee (TAAC). This Committee is made up of the following tax officials
    - Director Revenue Management
    - Chief Auditor Debt Management Unit (Secretariat)

- Chief Auditor Internal Assurance
- Team Leader Legal

22. The role of the TAAC is to provide advisory service on tax amnesty matters and to answer any related queries that taxpayers may have. Revenue and Customs Service staff will direct enquiries to the TAAC.

23. The Tax Amnesty Unit will register all applications and correspondence received in a Tax Amnesty Register. The official Tax Amnesty stamp will be affixed on these documents as well.

Decision making

24. If the CEO is satisfied that the applicant is a qualifying person, amnesty must be granted to the person and where required, penalty payable remitted.

25. If amnesty is not granted, the CEO must provide the applicant with reasons in writing, as soon as practicable.

Advisory services

26. Taxpayers will be given as much assistance as possible to take advantage of the amnesty. Public notices and circulars on all aspects of the tax amnesty service is available at our Customer Enquiry Centers and website www.frcs.org.fj

Contact details

27. The mailing address for tax amnesty returns and enquiries is:

    Tax Amnesty Unit (TAU)
    Fiji Revenue and Customs Service
    Private Mail Bag
    Suva

28. The email address for tax amnesty returns and enquiries is taxamnesty@frcs.org.fj .

29. The telephone number for the **tax amnesty enquiries** is**:**
    Suva – 0800 3318561 [Toll Free]

30. The hours of operation are:
    Monday – Thursday: 8.00 a.m. – 4.30 pm and
    Fridays: 8.00 a.m. – 4.00 p.m.

=========End of Practice Statement=========