PRACTICE STATEMENT No. 63/2017
Issued : 18 /10/17

SUBJECT	**Fiji Revenue and Customs Service** 2017 Tax Amnesty - Waiver of tax payable in respect of foreign assets, including related penalties for any tax period prior to 1 January 2018
DATE OF EFFECT	1 January 2015 to 31 December 2017
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCE	*Tax Administration Act* 2009 - Section 48A Income Tax Act 2015 – Section 2 and 6
PRACTICE COORDINATOR	Director Revenue Management

INDEX

Introduction……………………………………………………………………………………2
Legislative Basis…………………………………………………………………………………2
Application ………………………………………………………………………………………3
Process……………………………………………………………………………………………5

INTRODUCTION

1. The purpose of this Practice Statement is to provide guidance on the application of the foreign asset tax amnesty for qualifying persons. It sets out how the program is administered and includes 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 declared income or paid tax on foreign assets to get their tax affairs in order, voluntarily, by 31 December 2017. This is an extension of the tax amnesty program implemented on 1 January 2015.

3. A qualifying person must be a tax resident or where the person is an individual, a tax resident and Fiji citizen, required to declare their foreign asset under any tax law.

4. The benefit for qualifying persons participating in the tax amnesty program are -
   - waiver of tax;
   - waiver of interest, penalties or fines in respect of such undisclosed income.

5. 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

6. Section 48A 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 tax during amnesty period

48A.— (1) For the purpose of this section, unless the context otherwise requires—

"amnesty" means the waiver of any tax payable in respect of any foreign asset, including any interest accrued from, or any penalty or fine imposed, in respect of such tax for any tax period provided that the tax period is prior to 1 January 2018;

"amnesty period" means the period commencing on and from 1 January 2015 to 31 December 2017.

"applicant" means a qualifying person who applies under subsection (3);

"foreign asset" *means any asset outside of Fiji or income derived from the asset outside of Fiji, that is declared during the amnesty period; and* *"qualifying person" means a person who is a tax resident and Fiji citizen, required to declare their foreign asset under any tax law.*

(2) Any qualifying person may, within the amnesty period, apply for amnesty under subsection (3).

(3) An application for amnesty shall be made in writing to the CEO and such application shall include a declaration of any foreign asset and other information as the CEO may require.

(4) Notwithstanding any other provision in this Act, upon receipt of an application under subsections (2) and (3) and if the CEO is satisfied that the applicant is a qualifying person, the CEO shall grant amnesty to the applicant.

(5) Pursuant to subsection (4), the CEO shall, as the case requires, remit in whole any tax payable by the qualifying person in respect of the foreign asset, including any interest accrued from, or any penalty or fine payable, in respect of such tax for any tax period provided that the tax period is prior to 1 January 2018.

(6) If an applicant is not granted amnesty under subsection (4), the CEO shall, as soon as practicable, provide written reasons to the applicant for the refusal."

7. 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; "*

8. 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

9. The tax amnesty is available to all persons that are Fiji residents including individuals who are also Fiji citizens.

10. 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 or 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.

11. An individual must be a resident and a Fiji citizen. An individual is considered to be a Fiji resident if one of the following four alternate tests contained in Section 6 (1) is satisfied:

(a) The individual resides in Fiji.
(b) The individual is domiciled in Fiji and does not have a permanent place of abode outside Fiji.
(c) The individual is present in Fiji for 183 days in any 12-month period.
(d) The individual is an employee of the Government of Fiji posted abroad.

"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.

12. 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.

13. The tax amnesty will apply on all declarations relating to periods up to 31 December 2017.

Example 1

Jack (a resident and Fiji citizen) started his restaurant business in 2012. He has lodged income tax returns for 5 years 2012, 2013, 2014, 2015 and 2016. He also has 2 foreign bank accounts which were opened in 2012. He received interest income from those investments in Australia and the US in 2013 but never disclosed the assets or income in his tax returns.

If Jack applies for tax amnesty before 31 December 2017, he will be granted tax amnesty on tax and penalties.:

Tax Year	**Omitted income /information**	**Tax amnesty granted**
2012 - 2016	Failed to disclose foreign bank accounts	Penalty for incorrect return waived
2013 - 2016	Failed to disclose income	Tax on foreign income and any related penalty waived

PROCESS

How to apply for tax amnesty

14. 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 – Offshore Assets and Income Disclosure Statement*."

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

16. Applications can be mailed to the Tax Amnesty Unit, Fiji Revenue and Customs Service, Private Mail Bag, Suva or hand delivered to any of our Customer Enquiry Centers Fiji wide. It can be submitted through tax agents as well.

17. Applicants can get a copy of the application completed form stamped for their records.

Approval process

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

19. 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 Internal Auditor
- Team Leader Legal

20. The role of the TAAC is to provide advisory service on tax amnesty matters and to answer any related queries that taxpayers may have. All queries sent to other staff will be directed to the TAAC.

21. The Tax Amnesty Unit will register all applications and correspondence received on a Tax Amnesty Register and affix the official Tax Amnesty stamp on the documents.

Decision making

22. If the CEO is satisfied that the applicant is a qualifying person, amnesty must be granted to the person and where required, any tax and penalty payable waived.

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

Advisory services

24. Taxpayers will be given as much assistance as possible to take advantage of the amnesty. TAU team members will conduct awareness to all of Revenue and Customs employees and stakeholders on all aspects of the tax amnesty service.

25. Information relating to tax matters is readily available at all Fiji Revenue and Customs Customer Enquiry Centers and our website.

Contact details

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

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

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

28. The telephone number for the **tax amnesty enquiries** is**:**

Suva – 0800 3318561 [Toll Free]

29. 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========