



**PRACTICE
STATEMENT NO.
26/2017
Issued 25/09/2017**

SUBJECT	Fiji Revenue and Customs Service Stamp Duties
DATE OF EFFECT	1 August 2017
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCES	Stamp Duties Act, 1920 (Cap 205)
PRACTICE CO-ORDINATOR	Deputy Director Revenue Management

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INTRODUCTION

1. The purpose of this Practice statement is to provide guidance on the administration of stamp duties. It is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Revenue and Customs Service who is also the Commissioner of Stamp Duties.
2. Stamp duty is a charge on certain written documents ('instruments'). Stamp duty is charged at either a flat rate or an *ad valorem* rate (a rate based on the value of the transaction).
3. "Instruments" include agreements such as those relating to the appointment of trustees, bill of sale/exchange/lading, bonds, house airway bills or consignment notes, deeds, declarations of trust, insurance policies, notarial acts, order or payment, power of attorney, etc. These are subject to general or conditional exemptions.
4. Stamp duty is payable within two months after the execution (signing) of an instrument.
5. Any unstamped or insufficiently stamped instruments executed outside Fiji must be presented for payment of duty and stamping within one month after it has been first received in Fiji.
6. Late stamping is subject to the payment of penalty.
7. Certain documents must be submitted for assessment of duty payable and these may be presented in person or sent by post.

LEGISLATIVE BASIS

8. Stamp duty is charged under Section 3 of the *Stamp Duties Act, 1920* on the instruments listed in the *Stamp Duty Schedule*, except exempt instruments. The tax rates are specified in the *Schedule*.
9. Any instrument brought to the Commissioner is assessed to determine if it is liable for stamp duty. Stamp duty is payable only on instruments described in the *Schedule* and is subject to various conditional and general exemptions.

10. Section 4 provides that the Minister for Economy, upon receiving a report from the Commissioner, may waive or refund the whole or any part of any duty payable on an instrument. The CEO can waive or refund stamp duty on amounts up to \$25,000.
11. The person liable to pay stamp duty is the person who falls within the description of the persons listed in the column of the *Schedule* titled “persons primarily liable.” Such persons become liable when they sign the instrument. (Section 5).
12. Details of dutiable instruments and related exemptions are in Attachment 2 and further guidance is provided in the following paragraphs.

APPLICATION

13. Stamp duty is payable on certain signed instruments, however provisions are also available for general and conditional exemptions e.g. conveyance of any property to the Government of Fiji, Housing Authority, Sugar Cane Growers, etc.

Example 1

A small and micro enterprise with an annual gross turnover of \$500,000 or below, is exempted from paying stamp duty on instruments for the business. Such instruments are exempted under Paragraph 29, Part 2 General Exemptions (Part 2 of the Stamp Duty Schedule). A person applying for stamp duty exemption under this Part is required to submit a statutory declaration that the person’s gross turnover does not exceed \$500,000.

14. Conditional exemptions are available for conveyance transactions in Fiji. It applies to instruments such as transfers, mortgages and leases, a lease of land granted for a term exceeding 50 years, a mortgage which is the only or principal or primary security for the payment or repayment of moneys or which secures further or future advances of moneys due on current account, a transfer on sale of an estate in fee simple in any land; a transfer on sale of a lease of land granted for a term exceeding 50 years, the unexpired portion of which, at the date of the execution of the transfer, exceeds 5 years.

Example 2

Part 3 Paragraph 1(4) states that any Fiji citizen who purchases a residential property in Fiji is conditionally exempted from paying stamp duty, if it is the person’s first residential property in Fiji or elsewhere.

15. In certain cases, where conditional exemption is granted, and the conditions are not met, an applicant is liable to pay stamp duty equivalent to the part that was exempted as follows:

- if the dwelling is not occupied for at least five years during the ten-year period commencing on the date the instrument was signed, the duty will be payable together with compound interest at the rate of 5% per annum; or
- if within the 5 years commencing on the date of signing the instrument, the dwelling is voluntarily sold or transferred, the duty is payable together with compound interest at the rate of 5% per annum.

This does not apply on documents signed on or after 1 January 2016.

16. If the Commissioner has reason to believe that an instrument chargeable with duty has been executed and has not been presented for stamping, he may notify the person. (Section 26)

17. The offences for non-compliant activities are as follows:

Non – compliant activity	Penalty
Refusing to allow a search to be carried out in relation to forged stamps (Section 17)	fine of not more than \$25,000
Defacement of adhesive stamp (Section 20)	fine of not more than \$25,000
Obstructing any police officer from carrying out duties in connection with a search for forged stamps (Section 17)	fine of not more than \$25,000
Fraudulent use of adhesive stamps (Section 21)(1)	fine of not more than \$25,000
Failing to respond to a notice to present an instrument for stamping – (Section 26)	upon conviction, a fine of \$25,000
Offences relating to promissory notes (Section 61(1))	upon conviction, a fine not exceeding \$100
Activities relating to Bills of Lading (Section 64(2))	fine of not more than \$25,000
Activities relating to Airway bills (Section 64A)	fine of not more than \$25,000
Activities relating to marine insurance where duty remains unpaid after 14 days (Section 81(b))	the duty payable plus a fine of \$20
Activities relating to notary public (Section 78(1)(a))	upon conviction, a fine of \$25,000
Unlawful acts including fraudulent activities (Section 22)	upon conviction, imprisonment for a term not exceeding 10 years

Failing to provide full facts (Section 33)	upon conviction, a fine of \$25,000 plus the duty that should have been paid.
Failure to pay fines (Section 23)	imprisonment not exceeding 10 years
Issuing unsigned instruments, writs or processes (Section 103)	fine not exceeding \$25,000
Refusal to permit or obstructing inspections (Section 47(2))	fine not exceeding \$25,000
Knowingly enrolling any instrument not stamped (Section 48)	fine not exceeding \$25,000
Neglect or refusal to cancel adhesive stamp (Section 51)	fine not exceeding \$25,000
Failure to affix and cancel stamps on bills in the manner provided by Section 50 (Section 55(1))	fine not exceeding \$25,000

18. Any person, who fails to pay stamp duty or makes a false or misleading statement will be liable for penalties under the Stamp Duties Act.
19. Section 23 provides that the Minister may stay proceedings for any penalty and may reward any person who informs of any offence against the Stamp Duties Act or assists in the recovery of any penalty.
20. Section 27A provides the CEO with power to counter avoidance activities of taxpayers if there are reasonable grounds to do so. This would arise in situations where the CEO believes that any dealings have the effect of altering the amount payable or relieves any person from any stamp duty liability. It also applies to any act that hinders or prevents the operation of the Stamp Duties Act. The CEO may disregard or vary the dealings and make such assessments as the CEO considers just and proper in the circumstances.
21. An instrument must be presented for assessment of duty and stamping within two months after it is signed (Section 37 (1)). During this time, any unstamped or insufficiently stamped instrument can be stamped without any fine. After this period, any late stamping will incur fines.
22. Where an instrument is unstamped or was not properly stamped, fines will apply as follows:

Time Limit	Late payment penalty
More than 2 months but less than 3 months from the date of execution (<i>Section 37(1)(a)</i>)	a fine of 25% will be charged on the amount of duty payable or \$500 whichever is greater
Within 3 months after the date of execution (<i>Section 37(1)(b)</i>)	a fine of 50% will be charged on the amount of duty payable; on the amount of duty or \$1,000 whichever is greater

23. Any unstamped or insufficiently stamped instruments executed outside Fiji must be presented for payment of duty and stamping within one month after it has been first received in Fiji. (Section 37 (1)) Proviso to subsections (a) and (b)).
24. The Commissioner may at any time remit or reduce any fine incurred for late payment (Section 37 (1) (b), Proviso to subsections (a) and (b)).
25. Instruments are only regarded as presented for stamping when the duty is paid. However, if an assessment is disputed, the sum assessed may be paid to the Commissioner together with any fine until the matter is resolved. (Section 38).
26. Special provisions apply for the following classes of instruments: bills of exchange, promissory notes, bills of lading, bonds, debentures, charter parties, copies, extracts, duplicates and counterparts, instruments of exchange, marine insurance policies, property matters – leases, mortgages, settlements, transfers of shares, transfer on sale.
27. Section 100 provides that any unstamped documents which ought to be stamped are invalid and cannot be used as evidence in any court of law.

PROCESS

28. For every instrument presented for assessment and stamping, the Commissioner is required to do the following:
- assess liability to stamp duty;
 - determine the correct duty payable and fine (where applicable);
 - determine where duty is not payable;
 - receipt payment where the duty and penalty are applicable;
 - frank the instrument;

- f. sign and seal the instrument (Section 43).
29. Instruments presented for assessment may be impounded and detained until the duty or fine has been paid (Section 44).
30. Once assessed and paid, the Commissioner's seal is placed on the instrument. This is done to indicate that all applicable duty on that instrument has been paid.
31. If an instrument contains a number of considerations, stamp duty is charged separately for every matter that is liable to duty. (Section 29 (2))
32. If an incorrect assessment is made, the Commissioner is required to recover the tax underpaid within 6 months after the date of stamping. If it remains unpaid, it will be treated as a debt to the State; however, the person liable may appeal to the courts against the Commissioner's decision. (Section 46)
33. The Commissioner may conduct inspections on properties on an ad hoc basis. This will be conducted especially for cases where conditional exemptions had been granted. (Section 47)
34. In certain cases, an evaluation of the consideration declared by a person lodging application for payment of stamp duty may be required before it can be processed.
35. Stamp duty also applies on bills of lading, house airway bills or consignment notes for any goods, merchandise or effects that are exported from Fiji.
36. Goods that are directly consigned and raised under the direct master airway bill will be subject to stamp duty.
37. The stamp duty is payable by the person to whom the goods are consigned.
38. Agents and exporters arranging the export of goods on board a ship or an aircraft are required to comply with the following:
- (i) pay stamp duty of ten dollars (\$10) on each bill of lading;
 - (ii) ensure that the bill of lading, house airway bill or consignment note has the Commissioner's stamp and seal before it is delivered to the Comptroller of Customs for processing;

(iii) registered shipping and airline agents should arrange to have pre-paid bill of lading (of any quantity) by paying the stamp duty and having the bill of lading stamped.

39. The rates of duty payable are given in the Schedule to the Act. Duty payable can also be assessed by using the stamp duty calculator. The calculator is designed to compute the amount of stamp duty payable and the fine (where applicable) based on the details entered.

40. Payments can be made by cash or cheque in local currency and paid before the due date. Cheques must be made payable to the "Commissioner of Stamp Duties". Post-dated cheques will not be accepted.

41. There is no 'time to pay' arrangement. The stamp duty must be paid before the instruments are stamped.

42. For enquiries, please contact our Taxpayer Education & Publicity Unit (TEPU) on email: info@frcs.org.fj or telephone numbers 3243504/3243505.

ATTACHMENT 1

Example 1: Calculation of stamp duty on transfer documents

Mr. X (vendor) owns a commercial property and sold it to Mr. Y (purchaser) in 2013. The value of the property at the time of disposal was \$80000. Mr. Y will be liable to pay stamp duty on the transfer document.

$$\begin{aligned}\text{Stamp duty payable} &= \text{Value of property} \times 3\% \text{ (rate of duty from Schedule)} \\ &= \$80,000 \times 0.03 \\ &= \underline{\$2400.00}\end{aligned}$$

Example 2: Calculation of stamp duty on Mortgage documents

Mr. Z (mortgagor) took a loan from AB Bank Ltd (mortgagee) for \$50,000 to purchase a property at Nasese. Mr. Z will be liable to pay stamp duty on the mortgage document.

$$\begin{aligned}\text{Stamp duty payable} &= \text{consideration amount} \times 1.75\% \text{ (rate for duty payable)} \\ &= \$50,000 \times 0.0175 \\ &= \underline{\$875.00}\end{aligned}$$

ATTACHMENT 2

SCHEDULE OF INSTRUMENTS

	Nature of Instrument	Amount of Duty	Persons primarily liable
1	AGREEMENT OR MEMORANDUM OF AN AGREEMENT (other than an agreement for a lease) under hand only and not otherwise specifically charged with any duty, whether the same be only evidence of a contract or obligatory upon the parties from its being a written instrument, including every receipt or other matter put or endorsed or annexed		
	Exemption - Any agreement made in pursuance of the provisions of section 16 of the Workmen's Compensation Act.	\$10.00	The Parties
2	APPOINTMENT in execution of a power over any property or of any use, share or interest therein by any instrument not being a will	\$50.00	The person making or executing the appointment
3	APPOINTMENT AS NOTARY PUBLIC	\$1000.00	The appointee
	Exemption Legal practitioners employed by the state		
4	APPOINTMENT OF TRUSTEE (including new trustees)— For every appointment of a trustee by any instrument or by order of the High Court	\$50.00	The person making or executing The appointment.
	Exemptions (a) the appointment of a trustee by or pursuant to a will; (b) every instrument or order appointing the Public Trustee as trustee; c) every instrument for the appointment of a trustee or trustees of property held in trust for any corporation or body of persons associated for religious, charitable, or educational purposes		
5	ASSIGNMENTS OR ORDERS for payment of the proceeds of crops or other agricultural or pastoral produce— EXEMPT		
6	BILL OF EXCHANGE AND PROMISSORY NOTE of any kind (except a bank-note or cheque) drawn or expressed to be payable or actually paid or endorsed or in any manner negotiated in Fiji	\$100.00	The drawer or acceptor
7	BILL OF LADING, HOUSE AIRWAY BILL or CONSIGNMENT NOTE for any goods, merchandise, or effects to be exported from Fiji	\$10.00	The person by whom the goods are consigned.
8	BILL OF SALE	The like duty as for mortgage.	The assignor or lienor.

9	Discharge of --	The like duty as for discharge of mortgage	The assignor or lienor.
10	BOND <i>Exemption</i> – Any bond issued by the Government of Fiji for the purposes of bonding students on Government scholarships	\$50.00	The obligor
11	CHARTER-PARTY , or any agreement or contract for the charter of any ship or vessel (including aero planes) for conveyance outside Fiji	\$500.00	The charterer.
12	CHEQUES (means personal cheques, bank cheques, company cheques and bank drafts)	\$0.05	The drawer
13	COPY OR EXTRACT (attested or in any manner authenticated) of or from an instrument chargeable with any duty	\$5.00	The charter
14	Crop Lien	Exempt	
15	DEBENTURE OR DEBENTURE STOCK <i>Exemption</i> – Any debentures issued by the Government or any municipal authority or a refinancing or reconveyance of the stamped amount of a mortgage	The like duty as in the case of a mortgage.	The person issuing.
16	DEED of any kind whatsoever not otherwise charged in this Schedule	\$50.00	The person executing the deed
17	DEED OF ASSIGNMENT OF TRADEMARKS	3% of the value of the trademark	The person executing the deed
18	DUPLICATE OR COUNTERPART of any instrument charged with any duty where such duty does not amount to \$1	The like duty as on the original instrument	The person chargeable in the original instrument.
	In any other case	\$5.00	
19	DECLARATION OF TRUST—	\$30.00	The person declaring
20	EASEMENT with consideration	The like duty as on transfer on sale	The grantor
21	EASEMENT without consideration	\$5.00	The grantee
22	ENCUMBRANCE under the Land Transfer Act, securing annuity, rent-charge or money, other than mortgage	The like duty as in the case of a mortgage of same amount	The encumbrancer
23	EXCHANGE—See Sec. 71 of Act	The like duty as on transfer on sale on each	

		property passing	
24	FINANCE LEASE OR LOAN AGREEMENT , excluding a personal loan not exceeding \$10,000	1.75% of the lease or loan	The lessee or borrower
25	INSTRUMENT —otherwise exempt—on any instrument exempt from duty and required to be so stamped “exempt” by any person – denoting duty	\$5.00	The person requiring
26	GUARANTEE	\$100.00	The guarantor
27	LEASE OR agreement for a lease or any written document for the tenancy or occupancy of lands for: a) Agricultural purposes (including dairy)- (i) where lease is for land less than 100 acres – EXEMPT; and (ii) where land is 100 acres and above For all or any leases issued for agricultural purposes on or after the 1st of February, 2013. b) Commercial purposes; depending on the following; (i) annual gross turnover is less than \$500,000 (ii) annual gross turnover is between \$500,000 to \$1.5 million (iii) annual gross turnover in excess of \$1.5million c) Residential purposes and the monthly rental rate is (i) below \$700.00 (ii) \$700.00 to \$1,500.00 (iii) above \$1,500.00 d) Tourism/audio visual purposes. Any other type of lease	Nil \$500.00 \$1000.00 \$10.00 \$20.00 \$500.00 \$1500.00 \$500.00	The lessee or tenant
28	LEASE – Surrender of	\$10.00	The lessee or tenant
29	LEASE, VARIATION OF	\$10.00	The lessee or tenant
30	LETTERS OF CREDIT – See Bills of Exchange		
	MORTGAGE – 1) Being the only or principal or primary security for the payment or repayment of money – For every \$100 or part of \$100 principal moneys Where such a mortgage secures further or future advances or moneys due on account current – For every \$100 or part of \$100 of the principal indebtedness at any time owing.... Where the principal indebtedness under such a mortgage at any time exceeds the amount covered by ad valorem duty already paid, the mortgage shall be liable to further duty as if it were a new instrument in respect of the amount of such excess	\$1.75 \$1.75	The mortgagor The mortgagor

31	2)Being a collateral, auxiliary or additional or substituted security or by way of further assurance where the principal or primary security is duly stamped		\$10.00	
	NOTE: In determining whether an instrument is the only principal or primary security for the payment or repayment or money within the meaning of paragraph (1) of this Head no account shall be taken of any other instrument which is a security for the same sum or sums or for the payment or repayment as the case may be, of any part thereof, unless that other instrument is chargeable with stamp duty under paragraph (1) above and is duly stamped.			
	3)Transfer or assignment – For every \$100 or part of \$100 principal moneys owing			
	4)Reconveyance, release, or discharge of any such security as aforesaid, or of the benefit thereof, or of the money thereby secured			
	5)Mortgage on any property by a non-resident for residential purpose only, for every \$100 or part thereof of the purchase or consideration price. In this paragraph “non-resident” means non-resident for purposes of the Land Sales Act (Cap 137)			
	Exemption • The transfer of a mortgage or mortgages to or in trust for any corporation or body of persons associated solely for religious, charitable, or educational purposes or any refinancing or reconveyance of the stamped amount of mortgage • Any Mortgage relating to an agriculture sector			
32	NEW REGISTRATION OF VEHICLES , according to the engine capacity of the vehicles –			New owner of the vehicle.
	(i)	0cc – 999c	\$25	
	(ii)	1000cc – 1599cc	\$50	
	(iii)	1600cc – 1999cc	\$100	
	(iv)	2000cc – 2599cc	\$200	
	(v)	2600cc – 2999cc	\$300	
	(vi)	3000cc – 3599cc	\$400	
	(vii)	3600cc – more than 3600cc	\$500	
33	NOTARIAL ACT			
	1)For every notarial act of any kind (except protests on injury to ship or cargo) 2)For every maritime protest for or in respect of any injury or damage to any ship or vessel or the cargo or loading thereof or for any purpose that such protest may be required for and whether noted only or extended in due form		\$5.00	The person requiring the act
34	ORDER FOR PAYMENT - See Bills of Exchange			
35	PARTITION OR DIVISION –			

	For any instrument affecting a partition of any lands	The like duty as on a transfer	The person making the partition
36	POLICY OF LIFE ASSURANCE OR INSURANCE -		
	For every equitable assignment thereof to secure the payment or repayment of money for all local and overseas insurance transaction fees	The like duty as on a mortgage	The assignor
	On re-assignment of the same	Like duty as in discharge of mortgage	The assignor
37	POLICY OF ASSURANCE OR INSURANCE on any and all insurance policies issued on or after the 1st of February, 2013.	15% on gross premium payable	The policy holder
	The foregoing duty (hereinafter called the basic duty) under this item shall be payable in respect of a policy or instrument of which the term or period does not exceed one year. Where the term or period of any policy or instrument referred to in this item exceeds one year the duty payable shall be the duty multiplied by the number of years covered by the policy or instrument and for this purpose and incomplete year shall be reckoned as one year.		
	On any renewal of any policy or instrument referred to in this item duty shall be payable in accordance with the period for which the policy or instrument is renewed as on an original issue for that period		
	Exemptions - a) any agreement made in pursuance of the provisions of Section 16 of the Workmen's Compensation Act; b) compulsory third party; and c) medical insurance		
38	POLICY OF MARINE INSURANCE	10%	The policy holder
39	POLICY OF MOTOR VEHICLE INSURANCE	5%	The policy holder
40	POLICY OF TRAVEL INSURANCE	15%	The policy holder
41	POWER OF ATTORNEY - Upon every power or letter of attorney whether executed in or out of Fiji	\$100.00	The person executing
42	PROMISSORY NOTES - See bills of exchange.		
43	RENT, VARIATION OF	\$5.00	Lessee or tenant
44	SETTLEMENT, Deed of	\$50.00	The person making the settlement
	TRANSFER (other than any transfer otherwise specifically charged) -		

45	(1) Of a share, or any stock, or the like, in or any corporation or limited liability company for every \$100 or part thereof of the purchase or consideration price	\$3.00	
	(2) Of the property (or interest therein) for every \$100 or part thereof of the purchase or consideration price	\$3.00	
	(3) Of any property to a non-resident for residential purpose only, for every \$100 or part thereof of the purchase or consideration price In this paragraph, "non-resident" means non-resident for the purposes of the Land Sales Act (Cap. 137)	\$10.00	transferee
	(4) Any instrument of nomination, novation or assignment, howsoever titled shall be charged with ad valorem duty as a transfer on sale	\$3.00 for every \$100.	
	Provided that no instrument appointing any new trustee or trustees under any will, settlement, or other instrument, or any transfer to any devisee, or any appointee under a deed or will not valuable consideration or to any next-of-kin by any executor, administrator, or trustee shall be liable to the duty under this or any other Act relating to duties.		
	Exemptions - a) Any instrument dedicating a road, street or free and perpetual right-of way to the use of the public, or dedicating or transferring to any municipality land reserved as open space in a sub-division, and not containing any provision by which such instrument could otherwise become liable to duty; b) Any transfer of property to or in trust for any corporation or body of persons associated for religious, charitable, or educational purposes; and any instrument for declaring or defining the trust or for appointing new trustees in respect of such property; c) Transfer pursuant to Court Order - exempt only if Court Order stipulates; d) Transmission of an asset to an executor or beneficiary on the death of a person; e) Transfer of a principal place of residence, first residential property, an interest in a capital asset, or shares in a company, by reason of love and affection between spouses, siblings, parents to children and vice versa, and grandchildren to grandparents and vice versa.		

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