PRACTICE STATEMENT No. 37/2017
Issued 31/08/2017

SUBJECT	Fiji Revenue and Customs Service New Dwelling House VAT Refund
DATE OF EFFECT	1 August 2017
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCES	*Value Added Tax Act 1991* *Tax Administration Act 2009*
PRACTICE CO-ORDINATOR	Deputy Director Revenue Management

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INTRODUCTION

1. This statement sets out the practice in relation to the New Dwelling House (NDH) Value Added Tax (VAT) Refund scheme which was effective from 1 January 2012. It is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Revenue and Customs Service.

2. The NDH VAT Refund scheme is a tax incentive to encourage Fiji citizens to build and own homes. It allows an eligible person who acquires a dwelling house, to claim, within the guidelines issued by the CEO, a refund of all or part of the VAT paid. The refund claim is limited to a maximum VAT inclusive price of $120,000.

3. An eligible person includes a Fiji citizen or a non-profit body approved by the CEO that provides homes for the under-privileged in Fiji.

4. A dwelling house for which a claim is made, includes:
   - a new or existing house acquired from a registered person;
   - a new house built by the eligible person;
   - a new house built by a contractor hired by the eligible person;
   - land on which the NDH is built and anything included in the approved or initial plan that is attached to the house e.g. a garage, septic tank etc.

5. A dwelling house that is rented out for residential purposes also qualifies for the NDH refund provisions.

6. An eligible individual may apply for a refund on his/her first residential property and a non-profit body involved in the provision of free housing for the underprivileged may apply for a NDH refund for each NDH constructed.

7. For joint owners who are eligible, a joint application must be made as only original tax invoices are required to support a claim.

8. Application for a NDH VAT refund must be made in the approved form and submitted with tax invoices and supporting evidence within 3 years of acquisition. Those who build their own homes cannot claim as the work progresses; they must wait until the dwelling house is completed. If a certificate is obtained before the dwelling is completed, the person will not be able to make additional claims.

LEGISLATIVE BASIS

9. The legal basis for NDH VAT refunds is found in Section 70 of the *Value Added Tax Act* 1991.

10. Section 70 (1) provides that the CEO is required to refund VAT paid on –
    (i) the acquisition of a new dwelling house from a registered person; or
    (ii) the acquisition of land from a registered person, that will be used for the purpose of building a new dwelling house;

    when an application is made by an eligible person and the requirements are met.

11. The terms 'dwelling house' and 'new' are defined in Section 70 (9). Further guidance is given in paragraph 24.

12. A NDH refund claim can only be made once (Section 70 (2)). The refund application must be submitted to Revenue and Customs Service within three years of purchase or completion of the NDH.

13. Section 70 (3) provides that the CEO is required to prescribe the form for applications and the information considered necessary to process a claim; e.g. the certificate of completion and tax invoices.

14. Section 70 (4) sets out how the VAT refund is to be calculated. The VAT refund is the lesser of either –
    - an amount equal to the tax fraction of $120,000;
    - or an amount equal to the tax fraction of the consideration in money, for the supply.

15. Sections 70 (5), 70 (6) and 70 (7) provide the rules for eligible persons who build their own homes. Further guidance on the application is given in paragraphs 20 to 22.

16. The CEO can hold a refund and offset it against tax owing by the eligible person. (Section 70(8)).

17. A transitional rule for houses that were built before and completed after 1 January 2012 is given in Section 70(10).

18. Section 70 (11) sets out the penalties for falsifying certificates of completion. The penalty upon conviction is $50,000 or 10 years' imprisonment or both. Any tax official involved in the falsifying of a completion certificate is also liable upon conviction to a penalty not

exceeding $25,000 or to imprisonment for a term not exceeding 24 months or to both a fine and imprisonment.

APPLICATION

19. An eligible person can claim a refund for the amount of VAT paid for goods and services but only up to a maximum VAT inclusive price of $120,000. Based on the NDH refund formula given in Section 70 (4), this will be applied as follows –

a) if an eligible person acquired a NDH costing below $120,000, all of the VAT paid may be refunded;

b) if an eligible person acquired a NDH costing $120,000 or more, the maximum refund allowable is

- $15,652.17 ($120,000 x 3/23) for supplies made up to 31 December 2015; and
- $9,908.25 ($120,000 x 9/109) for supplies made from 1 January 2016.

Example 1 – NDH acquired after 31/12/15

In May 2016, Anand purchased a house for $140,937 from a registered person. The tax invoice showed the following details (i)VEP- $129,300 (ii)VAT (9%) - $11,637 (iii) VIP - $140,937.

<u>Calculation of refund</u>

The refund due to Anand is the lesser of:

(i)the amount of the tax fraction on $120,000 = $9908.25 ($120,000 x 9/109), and
(ii)the amount paid for the supply = $11,637

Refund due is $9,908.25

Example 2 – NDH acquired before 01/01/16

Litia purchased a house for $138,690 in December 2015 from a registered person. The tax invoice showed the following details (i)VEP - $120,600 (ii) VAT (15%) - $18,090 (iii) VIP $138,690

<u>Calculation of refund</u>

The refund due to Litia is the lesser of :

(i)the amount of the tax fraction on $120,000 = $15,562.17 ($120,000 x 3/23), and
(ii)the amount paid for the supply = $18,090

Refund due is $15,562.17

Example 3 - Acquisition involving expenses spanning two periods (2016 and 2013- 2015)

Where a claim spans two periods, the amount actually paid (based on tax invoices) will be used to determine the amount of VAT to be refunded.

Fiona built her house in October 2015 which was completed in February 2016 for a total cost of $140,000. To assess her refund claim, valid tax invoices for each period up to a total of $120,000 will be included in the determination of the amount of VAT paid.

- *Valid tax invoices for January and February 2016 = $20,000*
- *Valid tax invoices for October – December 2015 = $100,000*
- *Total - $120,000*

<u>Calculation of refund</u>
The NDH VAT refund due to Fiona is the amount paid on the value of the supply up to $120,000.
2016 = $1,651.37 ($20,000 x 9/109)
2015 = $13,043.47 ($100,000 x 3/23)
Total Refund = $14,694.84

20. For applications from eligible persons that build or arrange for someone to build their homes, a VAT refund will only be made if the CEO is satisfied that those goods and services for which a claim is made have been used in the construction of that new dwelling house. This is verified through a site inspection.

21. To claim VAT paid on the purchase of land, a dwelling house must be built on the land (Section 70 (5)) and the application for refund made within 3 years (section 70 (6)).

22. The time frame for claiming refunds is set out in section 70 (7). An application for a refund must be made as follows-

a) if the NDH was supplied by a registered person - within 3 years from the date supplied;

b) for self-built home - within 3 years from the date of completion. This means that in order to obtain a refund of VAT included in the price of land, the person must build a house and lodge a claim for both the land and house within 3 years.

Example 4

Rakesh purchased a residential property from AK Developers, a registered real estate company on 1 July 2016. *To qualify for a VAT refund, he must lodge his application with Revenue and Customs Service by 1 July 2019.* *Assume that Rakesh bought a piece of land on 30th June 2012 and his house was completed on 31 March 2015. To qualify for a refund of VAT paid on the land, his NDH refund application should have reached Revenue and Customs Service by 30 June 2015.* *If the application is lodged after 30 June 2015, only the VAT included in the cost of building of the house will be considered, in which case Rakesh's claim for VAT on the completed house must be made by 31st March 2018*

23. Section 70 (8) provides that the CEO can hold a refund and set it off against tax owing by the eligible person.

Example 5

Nancy's claim for NDH VAT refund of $6845 was processed in May 2016. Our tax information system showed that she owed $1840 for the tax year 2015. *The CEO can deduct $1840 from the amount due and refund the balance*

24. The terms 'dwelling house' and 'new' for VAT purposes are defined in section 70 (9). The following explains these terms and how they are applied -

(a) a 'dwelling house' is defined as " …*a building constructed solely as a first residential property of that eligible person and includes any land or appurtenances belonging to the dwelling house or usually enjoyed with it*;" therefore applies to

- a person's first residential property
- the land on which the house is situated
- appurtenances

(b) "New" in relation to the purchase/construction of a dwelling house means any of the following-

(i) a house that has not been used by any person; or

(ii) a house that has been acquired or held for use by the person acquiring it; or

(iii) an existing house that is sold by a registered person to an eligible person – in this context, the house is 'new' for the purchaser.

Example 6

Siteri hired a contractor to build her home. The property development plan includes a shed that will be used for her nursery business.

(1) She will be entitled for a VAT refund on expenses relating to the construction of the house only

(2) She will not be able to claim for VAT expenses on the nursery as this appurtenance is not necessary for residential purposes.

Siteri will be required to keep separate records. If she is a registered person, she will make a claim for input tax in her VAT return.

Example 7

Mr and Mrs Singh acquired a NDH in Labasa for their family however are not living in it because Mr Singh is required to work in Suva. The house is being rented out.

Mr and Mrs Singh qualify for a NDH refund as the house is their first residential property.

Example 8

Anjana purchased a commercial property for the purpose of her business. She plans to live in the top flat with her family

Anjana does not qualify for a NDH refund as the building is not a residential property.

Example 9

Vimal is interested in buying a house that appears in an advertisement on mortgagee sales.

He will be entitled to claim a refund of VAT if the house is purchased at a

VAT inclusive price as the definition of 'new' includes an existing house that is sold by a registered person to an eligible person

25. Subsection 10 sets out transitional rules for claims where a NDH was constructed before 1 January 2012 and completed after this date. Only VAT paid on or after 01 January 2012 will be taken into account for the purpose of calculating the refund due.

Example 10

Naulu commenced building her house in September 2011. The total VAT paid based on valid tax invoices was as follows - 2011 $350, 2012 $2,350 and 2013 $4,985. *For VAT refund purposes, only the amounts paid in 2012 and 2013 will be taken into account.*

PROCESS

26. Guidance on the NDH refund process and what can be claimed is set out in the Revenue and Customs Service '*Checklist for New Dwelling House Applications*, which is available on our website: www.frca.org.fj. Eligible persons must complete the *Application for refund of VAT on Acquisition of a New Dwelling House* form (IRS032) and send it to Revenue and Customs Service with an Input Tax schedule (IRS033) and other information required to be submitted.
Before making a claim, the applicant should ensure that all paperwork is in order and evidence of completion.

27. Before making a claim, all the paperwork and evidence of completion must be in order. Information that must be submitted to support claims are –
a) Tax invoices
b) Proof of identity
c) Proof of ownership
d) Letter confirming that the building is completed
e) House plan
f) Certificate of completion (for self-built homes)

28. Tax invoices and other information required by the CEO must be listed and submitted with the claim.

		Evidence to be submitted based on requirements
1	House purchased from a registered person	▪ Tax invoice - Supplier's tax invoice ▪ Other information - Sale and purchase agreement
2	House built by a	▪ Tax invoice

	building contractor who is a registered person	- Contractor's tax invoice - Tax invoices for materials/ and services ▪ Other information - Original completion certificate - Approved house plan - Sale & Purchase Agreement if the claim includes VAT on land
3	For houses constructed on mataqali land including homes built by a building contractor who is a registered person	▪ Tax invoice - contractor's tax invoice , if applicable - original tax invoices for materials and services purchased ▪ Other information - Certificate or letter of completion – Revenue and Customs Service will accept letters signed by the iTaukei Land Trust Board, the Turaga ni Koro (village headman) , Roko Tui, Turaga ni Yavusa/Mataqali - Verification from Roko Tui that claimant is a mataqali member
4	Non-profit organizations	▪ Tax invoice - contractor's tax invoice - original tax invoices for materials and services purchased - certificate of completion

29. To ensure that those who self-build is given the same treatment as those who buy a completed property, expenses on goods and services incurred in the construction of a dwelling house are allowable expenses.

30. Where a person buys an existing house, the entire cost of construction is included in the purchase price and so as long as the person holds a valid tax invoice issued by the supplier, that tax invoice is sufficient to support a claim. This will not so easy to determine for those who build their own dwelling house and appurtenances. The following serves as a guide on allowable expenses

		Description of claim	Allowed /Not allowed
1	House purchased from registered person	Garage and driveway added after the purchase	Not allowed A claim can be made only once and that is when the house is completed. Any

			construction undertaken by the purchaser is not allowable as the completion certificate would have been obtained by the supplier before the sale
2	Self-built property	Garage and driveway constructed before the completion certificate was issued	Allowed Tax invoices relating to goods and services incurred in construction must be provided with the refund claim
		Garage and driveway constructed after the completion certificate was issued	Not allowed Any development work after the completion certificate is issued is treated as an extension.

31. VAT on expenses that arise before the actual construction of a new dwelling house and which had to be met before the actual construction could take place are allowable.

Example 11

Apisai shipped building materials from Suva to Moala Island. He had to pay freight charges to get the materials to the building location. The tax invoices are included in his application. The claim will only be allowed if the CEO is satisfied that the claim for VAT paid on freight charges is in respect of the building materials used in the construction of Apisai's house.

32. Appurtenances are usually included in building plans therefore for VAT refund purposes, details must be included in approved or amended plans.

33. An eligible person is required to produce a certificate or letter of completion to support a claim. A completion certificate is a requirement under the Public Health Act. It is only issued after an authorized person inspects a new or renovated property and certifies that it is fit for occupation.

34. For VAT refund purposes Revenue and Customs Service will accept a certificate or letter of confirmation from relevant authorities or authorised persons. All valid claims up to the date of completion given in the certificate will be allowed.

35. The claim has to be made in the format set out by Revenue and Customs Service. Revenue and Customs Service will accept a certificate or letter of completion from the local authorities for buildings in urban centers or from the Mataqali for homes built on native land.

36. Refunds will be allocated to the eligible persons only. For joint applications, the refund will be sent to the person authorized to make the claim and to act on behalf of the applicants.

Example 12

Elena, Ranadi, Frances and Pauline are joint owners of a new dwelling house built in and completed in 2016 for $130,000. *Frances is not an eligible person as she owns another house for which a NDH refund was issued in 2013.* *The maximum refund due ($9908) will be apportioned as follows:* *Refund payable $9908 x 3/4 = $7431*

37. Eligible persons can check whether they meet the requirements by writing to info@frcs.org.fj or by emailing the contact persons-
    - Navin Maharaj nmaharaj@frcs.org.fj PH: 3243538
    - Kavita Nand knand@frcs.org.fj PH: 3243532

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