PRACTICE STATEMENT No. 5
2nd release

SUBJECT	**FIJI REVENUE & CUSTOMS AUTHORITY:** **TAXABLE ASPECTS OF TAX FREE ZONES**
DATE OF EFFECT	1 May 2003
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCES	*Income Tax Act 1974* Section 8 *Value Added Tax Decree 1991* Second Schedule *Tax Free Zones Decree 1991*
PRACTICE CO-ORDINATOR	National Manager Revenue Collection

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INTRODUCTION

1. This statement sets out the practice of the Fiji Revenue & Customs Authority in relation to the taxable aspects of Tax Free Zones (TFZs) and Tax Free Factories (TFFs). Taxpayers who have been granted the concession under the *Tax Free Zone Decree1991* enjoy certain privileges, including exemption on profits attributable to export earnings. However, other aspects of their taxation are not subject to the exemption, and in these respects they are to be treated like any other taxpayer.

INCOME TAX ASPECTS

2. The total income of a taxpayer, which has a TFZ or TFF concession, may at times include income which is not the subject of the exemption. This includes:

   (a) interest and dividend income which is normally included in total income and is not the subject of a specific exemption;

   (b) income from rental properties and sub-lease of business premises;

   (c) profit of the sale of assets (eg land, buildings, plant, machinery, motor vehicles);

   (d) sales in the domestic market (where the taxpayer has not complied with the 70/30 rule)

   (e) realised foreign exchange gains on current account (irrespective of whether they arise from export or domestic sales contracts);

   (f) profits from enterprises which are not located within the TFZ; and

   (g) profits from re-exported goods.

3. Such income will be liable to tax if the taxpayer has an overall positive chargeable income. Where the taxpayer has a loss from their TFZ activities, such income as listed above will reduce that loss to determine their amount of loss carried forward.

WITHHOLDING TAX ASPECTS

4. The repatriation of TFZ profits in the form of dividends to a non-resident shareholder is usually exempt from the non-resident dividend withholding tax imposed under section 8 of the *Income Tax Act*. However, if there has been a “shift in revenue” per paragraph 11(d) of the *Tax Free Zones Decree*, the withholding tax exemption will not apply. A “shift in revenue” occurs where tax is payable by a non-resident on a payment subject to withholding tax, such as a dividend, in the country of residence of that person.

5. If there has been a shift in revenue, any withholding tax must be paid before a tax clearance will be allowed for the funds constituting the dividends to leave Fiji.

VAT ASPECTS

6. Taxable supplies by a registered person who holds a TFZ concession, made in the domestic market, are subject to VAT at the standard rate. Only those supplies, which are exported or other specified transactions, listed in the Second Schedule of the *VAT Decree* are zero-rated.

7. The supply of goods or services from one taxpayer who holds a TFZ concession to another taxpayer who holds a TFZ concession is considered to be a supply made on the domestic market.

8. This practice revokes and supersedes Customs and Excise Notice No. 2 of 1997 and any other previous statement of policy or interpretation, public or private, on this matter issued by FRCA or the previous Departments of Inland Revenue or Customs & Excise.