Practice Statement No. 45 Issued 31/05/2017

SUBJECT	**FIJI REVENUE & CUSTOMS AUTHORITY** **ZERO-RATING OF EXPORTS**
DATE OF EFFECT	1 August 2016
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCE	*Value Added Tax Act, 1991 - Section 15, Second Schedule.* *Tax Administration Act, 2009*
PRACTICE COORDINATOR	Deputy Director Revenue Management

INDEX

INTRODUCTION

1. This Practice Statement explains how FRCA will administer the tax laws for Value Added Tax (VAT) purposes on export earnings that have not been brought back to Fiji. It is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Revenue & Customs Authority (FRCA).

2. In general, a registered person is required to include VAT in the sale price of goods and services supplied to another person (except exempt supplies). The tax rates are 9% for standard supplies or 0% for zero-rated supplies.

3. The supply of goods and services that are exported by a registered person is a zero-rated supply for which VAT at zero- percent (0%) is charged at the time the supply is made. With effect from 1 August 2016, such supplies will only be zero-rated if the registered person remits the export earnings back to Fiji.

4. Compliance check on the inward remittance of export earnings will be made six months after the goods or services are exported or such extended time directed by the CEO.

5. If all or part of the export earnings have not been brought back to Fiji, within the time allowed, the registered person will be required to pay the tax that would have been charged if the goods and/or services were not exported, but sold locally. i.e. the tax payable is 9% of the tax invoice amount.

LEGISLATIVE BASIS

6. Section 15 of the Value Added Tax Act 1991 sets out how VAT is charged. VAT is charged at nine percent (9%) on supplies of goods and services in Fiji. However, certain types of taxable supplies are taxed at a rate of zero percent (0%).

7. Supplies that are zero-rated are set out in the Second Schedule to the VAT Act, and in relation to export earnings, it states -

   "A claim for zero-rated supply of goods or services is only allowed under this Schedule provided the Commissioner is satisfied that the export earnings have been remitted to Fiji, with respect to the following supplies-…"

8. Since this law refers to 'export earnings', it only applies to export earnings from the export of goods and services listed paragraphs 1-5, 9-11, 13-15 of the Second Schedule. (Refer Attachment)

APPLICATION

9. Where export earnings are not brought back to Fiji, the assessment for the taxable period in which the supply was reported as zero-rated will be amended. Registered persons will be required to account for VAT on the unremitted earnings.

Example 1 – One supply - export earnings brought back/received in Fiji

> *FijiCo exported manufactured goods valued at FJD$50,000 to USCo on 31 August 2016. Tax invoice was issued on 15th September 2016. Payment was deposited in FijiCo's US account on 1 October 2016.*
>
> *The zero-rated sales are reported in FijiCo's August 2016 VAT return as follows*
>
> *Total supplies - $80,000*
> *Zero-rated supplies - $50,000*
> *Taxable supplies $30,000*
> *Output tax ($30,000 x 9/109) = $2477.06*
> *Input tax ($29,000 x 9/109) = $2394.49*
> *Tax payable: $82.57*
>
> *A compliance check in April 2017 shows that there was an inward remittance equivalent to FJD $50,000 in 2016. No adjustment is required for the August return.*
>
> *If the export earnings are not brought back to Fiji, Output tax adjustment will result in an additional tax payable of $4500 ($50,000 x 9%).*

Example 2 – Part of export earnings brought back to Fiji

> *Same details as above. Part of the export earnings ($40,000) was used to purchase raw materials and $10,000 was brought back to Fiji in December 2016.*
>
> *This would be an allowable transaction as it is normal business decision i.e raw materials are bought instead of cash remittance. However, the person must provide evidence of deposits/withdrawals in the foreign bank account.*

Example 3 – Successive supplies, export earnings not brought back to Fiji

SuvaCo has a contract to supply goods monthly to SamCo a company based in Samoa.

A compliance check in April 2017 showed that there were no inward remittances for the following periods-

- *Aug – Dec 2016 $45,000*
- *Jan – March 2017 $30,000*

Adjustments will be made as follows:

1) *Output tax adjustment of $4050 ($45,000 x 9%) relating to the December 2016 assessment.*
2) *Output tax adjustment of $2700 ($30,000 x 9%) relating to the March 2017 assessment*

Although the goods were exported and paid for by the recipient, an Output tax adjustment is required for the earnings not brought back to Fiji.

Note : If the funds are brought back to Fiji at a later date , the amended assessments will be withdrawn

Example 4 – Credit sales and amount is written off

Same details as in Example 3

AustCo does not pay the amount due for the March 2017 consignment. Tax invoice value of supplies $10,000.

Amount is recorded as a bad debt and written off; adjustment is made in the December 2017 return.

No adjustment is required if the CEO is satisfied that the amount is actually written off in the books of accounts

PROCESS

10. FRCA will work in consultation with the Reserve Bank of Fiji to verify information relating to inward remittances, approvals to keep funds offshore and exchange rate conversions. Currency conversions will be based on commercial bank exchange rates.

11. Verification on inward remittances will take place six months after the export transaction date or such time extended by the CEO.

12. Exporters will be required to keep records to support that export earnings were remitted to Fiji. Where applicable, records of transactions relating to funds kept offshore must be maintained as well.

13. If export earnings are not brought to Fiji or if there is no documentation to support why funds were kept offshore, the registered person will be issued with a notice of the CEO's intention to make an adjustment for Output tax. An amended assessment will be issued if no response is received within 14 days.

14. The provisions relating to voluntary disclosures, record keeping requirements and imposition of penalties in the Tax Administration Act 2009 will apply.

15. For further information, please write to info@frca.org.fj.

ATTACHMENT – **Extract from VAT Act**

Second Schedule - Zero-rated supplies

" A claim for zero-rated supply of goods or services is only allowed under this Schedule provided the Commissioner is satisfied that the export earnings have been remitted to Fiji, with respect to the following supplies—

1. The supply of goods where the supplier has entered the goods for export, pursuant to the Customs Act 1986, and those goods have been exported by the supplier.

2. The supply of goods where the goods have been deemed to be entered for export pursuant to the Customs Act 1986, and those goods have been exported by the supplier.

3. The supply of goods where the supplier has satisfied the Commissioner that the goods have been exported by the supplier to a place outside Fiji.

4. The supply of goods where the supplier will enter the goods for export pursuant to the Customs Act 1986, in the course of, or as a condition of, making that supply:

Provided that in any case where such goods are not exported within twenty eight days of the time of supply, the supply shall, subject to paragraph (1) of this Schedule, be charged with tax pursuant to Section 15(1) of this Act.

5. The supply of goods which are not situated in Fiji at the time of supply.

9. The supply of services directly in connection with goods situated outside Fiji.

10. The supply of transport services relating to the international carriage of passengers and goods -
(a) from a place outside Fiji to another place outside Fiji; or
(b) from a place in Fiji to a place outside Fiji; or
(c) from a place outside Fiji to a place in Fiji; or
(d) from a place in Fiji to another place in Fiji to the extent that the transport is by aircraft and constitutes —international carriage|| for the purposes of the Civil Aviation Act.

11. The supply of services comprising the insurance or the making of the arrangement of the insurance or the making of the arrangement of the transport of passengers or goods to which any provision of paragraph 10 of this Schedule applies.

13. The supply of services which are physically performed outside Fiji.

14. (1) The supply of the following services to a person who belongs in a country, other than Fiji-

(a) the filing, prosecution, granting, maintenance, transfer, assignment, licensing, or enforcement of intellectual property rights, including patents, designs, trademarks, copyright, know-how, confidential information, trade secrets, or similar rights;

(b) advertising services;

(c) services of consultants, engineers, consultancy bureaux, lawyers, accountants, and other similar services, data processing and provision of information;

(d) the acceptance of any obligation to refrain from pursuing or exercising in whole or in part, any taxable activity or such rights as referred to in subparagraph (a) above;

(e) the provision of staff;

(f) financial services described in paragraph (1) of the First Schedule to this Act,

(g) live broadcasts of films made or filming carried out in Fiji.

(h) services of an Information Communication Technology business as defined in section 17(63) of the Income Tax Act, Cap 201.

(i) insurance services including reinsurance services or agreeing to do or arranging any such insurance or reinsurance services.

(2) For the purpose of this paragraph, supply of services will be zero-rated where and to the extent that these services are supplied for and to a person who is not resident in Fiji and who is outside Fiji at the time the services are performed for use and benefit outside Fiji and the supply is directly connected with goods or real property situated outside Fiji or with the rights that are for use outside Fiji.

15(1) The supply to a person in that persons' taxable activity capacity (and not in that person's private capacity) who in that capacity belongs in a country other than Fiji of services comprising of -

(a) the handling or storage of goods at or their transportation to or from a place at which they are to be exported or have been imported or the handling or storage of such goods in connection with such transport; or

(b) ancillary transport activities in relation to any ship or aircraft in a port or airport; or

(c) the making of the arrangements for the supply of any of the services referred to in this paragraph and paragraph 7 of this Schedule.

(2) For the purposes of this paragraph, —ancillary transport activities‖ includes loading, unloading, handling, landing, berthing and stevedoring.

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