PRACTICE STATEMENT No. 5/2012

SUBJECT	**FIJI REVENUE & CUSTOMS AUTHORITY:** **LOSSES**
DATE OF EFFECT	1 January 2012
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCES	*Income Tax Act* 1974
PRACTICE CO-ORDINATOR	National Manager Revenue Collection

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INTRODUCTION

1) The purpose of this Practice Statement is to provide information on the new provisions relating to the deduction of losses in calculating total income and chargeable income. The changes, which are effective from 1 January, apply to losses incurred in the income year 2012 and subsequent years with some conditions for unutilized losses incurred in the years prior to that. These guidelines are issued with the authority of the Chief Executive Officer, of the Fiji Revenue & Customs Authority (FRCA), who is also Commissioner of Inland Revenue.

2) The change is that the provision for carry forward of losses has been reduced from 8 years to 4 years and this will affect the majority of business taxpayers that have incurred losses prior to the income year 2012.

3) The change means that:

- losses incurred in the income year 2012 can be carried forward for up to four years;
- any loss incurred in the year 2007 and prior years which has been carried forward and remains unutilized at the start of the 2012 income year will be forfeited;
- the 4-year rule also applies to any loss incurred in the income years 2008, 2009, 2010 and 2011 which is available for carry forward;

4) Whilst the carry forward of losses is restricted to four (4) years for most taxpayers, hotels and resorts can continue to carry forward losses for up to eight (8) years.

LEGISLATIVE BASIS

5) In the 2012 Budget Address, the Minister of Finance announced a change in the provision for losses to come into force on 1 January 2012. To give effect to the change, the following parts of the Income Tax Act have been amended:

i) Section 22 (1), (2),(5), (6) and (7)

ii) the 8^{th} Schedule

6) Any loss incurred in any trade, business, profession or vocation prior to the 2012 income year shall only be carried forward for a period of up to 4 years in succession. Provided that the total period, including any period to or after the income year 2012, shall not exceed four years. Any unutilized balance remaining after the period of four years is forfeited. Examples 1 and 2 illustrate how this will be administered.

Example 1

Company X began operations in 2007. Fiscal year ends on 31 December. In the first and second year of operations the company recorded an operating loss of $80,000 and $5000 respectively. Profits were recorded for the years ending 31/12/09, 31/12/10, 31/12/11 and 31/12/12.

For tax purposes, the provision for losses would be applied as follows:

Income Year	Taxable Profit (Loss)	Balance c/f
	$	$
31/12/2007	(80,000)	(80,000)
31/12/2008	(5,000)	(85,000)
31/12/2009	1,000	(84,000)
31/12/2010	23,000	(61,000)
31/12/2011	31,000	(5,000) [$25,000 forfeited]
31/12/2012	35,000	

Note :

1. Losses previously available for carry forward for 4 years and unutilized in the income year 2011 are forfeited. In the example above, the loss amounting to $30000 is made up of ($25000) being remaining balance of 2007 and ($5000) for the year 2008. The ($25000) is forfeited.

2. Company X will pay normal tax on the 2012 profit of $35000 less $5,000 carried forward from the income year 2008.

Example 2

If Company X recorded an operating loss for all the years, for tax purposes, the provision for losses would be applied as follows:

Income Year	Taxable Profit (Loss)	Balance c/f
	$	$
31/12/2007	(80,000)	(80,000)
31/12/2008	(6,000)	(86,000)
31/12/2009	(4,000)	(90,000)
31/12/2010	(3,800)	(93,800)
31/12/2011	(5,000)	(18,800) [$80,000 forfeited]
31/12/2012	(4,500)	(17,300) [$6,000 forfeited]

Note :

1. Losses prior to 2008 and unutilized in the income year 2011 are forfeited. In the example above, the loss forfeited ($80,000) is the total losses for 5 years

2. Company X will be able to carry forward the loss for only four years.

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