PRACTICE STATEMENT No. 56
Issue Date: 29/03/2017

SUBJECT	*Application Process for Creation of a Produce Supplier Division*
DATE OF EFFECT	1 January 2017
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCES	**Value Added Tax Act 1991** *Sections 2, 15 & 27*
PRACTICE CO-ORDINATOR	Deputy Director Revenue Management

INDEX

INTRODUCTION

1. This practice statement explains the application of the Value Added Tax (VAT) provisions for produce suppliers. It is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Revenue & Customs Authority (FRCA).

2. A produce supplier is a person who deals in produce in a raw and unprocessed state. Produce is defined as the produce from the activity of agriculture and includes any fruits, vegetables, root crops, fish and other aquatic produce. E.g. a person who solely supplies raw fish whether by the road side, the fish market or in a fish shop is a produce supplier.

3. For VAT purposes, a produce supplier is not required to register if that supply makes up at least 90% of the person's total value of supplies (even if the total value of supplies exceeds the compulsory registration threshold of $100,000). The balance of supplies must also be produce but does not have to be in a raw and unprocessed state. It can be produce which has been processed through basic cutting, separation etc. e.g. minced meat, steak, unpounded kava.

4. 'Raw and unprocessed state' in relation to produce means:
   - not yet cooked, smoked or baked;
   - unmanufactured, undiluted, crude, unmilled, unpowdered, unpounded;
   - not processed mechanically or by the use of chemicals, except through basic separation, cutting of parts, packaging or freezing (excluding blast, quick or snap freezing).

5. A registered person who supplies both produce and other taxable supplies is not a produce supplier. However, a person who is registered and who does not want to charge VAT on produce prices, can apply to the CEO to treat a separate branch or division of the person's business as a produce supplier division.

6. Once approved in writing, that part of the business is treated as a separate person. This means that:
   - although the owner is a registered person, VAT will not be charged on sales of produce from that branch or division;
   - the registered person is not allowed to claim any input tax on purchases and expenses;
   - any asset (equipment etc.) used in a taxable activity that is transferred for use in the produce supply branch or division, is a deemed supply and the person will be required to account for Output VAT on either the cost or the market value of the asset, whichever is less.

LEGISLATIVE BASIS

7. Section 27 of the *Value Added Tax Act* 1991 (VAT Act) provides for the recognition of a produce supplier division. It states, "…*where a taxable activity is carried on by any registered person in branches or divisions and any branch or division solely supplies produce that registered person may apply in writing to the Commissioner for the branch or division to be treated as a separate person…*"

8. A person who wishes to have a produce supplier division and separate status for VAT purposes must supply at least 90% raw and unprocessed produce in that division, 10% can be in a processed state through basic separation/cutting etc. These terms are defined in Section 2 of the VAT Act.

9. Extracts of the relevant sections are given in the Attachment and further guidance is given in the following paragraphs.

APPLICATION

10. A person who carries out a taxable activity in branches and divisions can apply for a branch or division to be treated as a separate person for VAT purposes.

11. Part of a taxable activity can only be treated as a separate person if:
    - the branch or division solely supplies produce;
    - at least 90% of the produce is in a raw and unprocessed state;
    - not more than 10% of the produce is in a processed state but is still raw; i.e. the produce can be sliced up and packaged for sale.

Example 1

Sen & Co is a registered person with the following taxable activities-

1. *a supermarket in Suva - annual gross income is $300,000; (Division A)*
2. *a vegetable farm in Navua – annual gross sales is around $5000. (Division B)*

The produce is transported to his supermarket for sale weekly. Both businesses have independent accounting systems.

Sen is not a produce supplier for VAT purposes because the supermarket supplies makes up 98.36% ($300,000/$305,000 x 100%) of his total supplies. He is therefore required to charge VAT on all supplies from both Divisions.

Sen can apply for Division B to be treated as a separate person because –

1. *Division B supplies only raw vegetables (100% produce supplies)*
2. *Division B can be separately identified from other taxable activities.*

3. *Division B. has a separate accounting system.*

Example 2

XCo 's taxable activities include the following- 1. *Land lease - annual royalty $500,000 (Division A)* 2. *Cattle farming - $200,000 (Division B)* 3. *Butcher - supply of raw meat $105,000 (Division C)* *XCo does not supply 100% produce therefore is not a produce supplier for VAT purposes.* *XCo can apply for Division B and/or Division C to be treated as separate persons as both divisions solely supply produce.*

12. Upon application, the CEO may treat any branch or division as a separate person if each branch or division meets the requirements given in Section 27(2) of the VAT *Act.* These are tabled below:

Requirements	**Additional guidelines**
1.Each branch or division must maintain an independent system of accounting	This involves the following - (i)separate recording for sales- invoices and tax invoices; (ii)separate recording for purchases; (iii)identification of overhead costs involving power, telephone, office space, motor vehicle expenses so that VAT paid on purchases of goods and services can be correctly apportioned between respective use in processed and unprocessed supplies (iv) receipts and banking details of unprocessed goods must be separated e.g. separate cash books, journals, books of prime entries etc.
2.Each branch or division must solely supply produce in a raw and unprocessed state-	The following is considered to be a supply in raw and unprocessed form - 1. the sale of produce in crude form or undiluted 2. the sale of produce that has been through the basic separation process and

	packaged or frozen
3. Each branch or division can be separately identified on the basis that it is a produce supplier; or can be separately identified based on the location of the branch or division.	The Registered person must have a separately identified place from where the unprocessed goods are sold. The physical separation is important and may involve the following: (a)separate cashiers/ tills (b)separate counters (c)physical division like permanent chains, partitions, dividers etc. to separate the customer areas to ensure that sales from the processed and unprocessed counters are not mixed (d) separate storage areas as far as possible. Where this is not possible, an acceptable basis of apportioning VAT paid on inputs must be established. (e) List of assets used solely in the processed and unprocessed activities and a list of assets used for both activities.

13. The requirements will not be met if the branch or division sells produce that has been transformed by any of the following means:
    - by cooking, smoking, or baking;
    - by mechanical or chemical processing or by blast, quick or snap freezing;
    - through milling or has been powdered or pounded or diluted.

14. The following are examples of produce which is not in a raw and unprocessed state:
    -sausages (processed);
    -bacon (cured);
    -frozen chicken (blast frozen);
    -frozen peas and vegetables (snap frozen);
    -polished rice (milled);
    - kava (pounded)

    Note – Snap/blast/quick freezing usually apply in a factory or industrial situation.

Example 3

Same details as in Example 2

Scenario 1

Assume that XCo's supplies in Division C consists of the following:

1. *Sheep sales - $100,000*
2. *Supply of lamb chops in $5 packages - $5,000*

Total value of supplies in the division - $105,000

Division C is a produce supplier for VAT purposes as it supplies 100% produce. The packaged lamb chops has been processed through basic cutting, separation etc and can be classified as produce because it is still in a raw state and makes up 4.76% of total supplies ($5,000/$105,000 x 100%)

Scenario 2

Assume that XCo's supplies in Division C consist of the following:

1. *Sausages - $85,000*
2. *Pre – cooked sausages - $2000*

Division C is not a produce supplier for VAT purposes as it does not sell 100% produce in a raw and unprocessed state.

Example 4

Mr. Y is a registered person who sells raw and pounded kava. His gross sales exceed $100,000 per annum.

He is not a produce supplier as he does not sell 100% produce in a raw and unprocessed state.

Agricultural produce is regarded as in a "raw and unprocessed state" when it is unpounded. Therefore for VAT purposes, when kava is pounded, it is not in a raw and unprocessed state.

Mr Y can apply to the CEO to register the supply of unpounded kava as a produce supplier division.

Example 5

Mr Z is a copra farmer and registered person. Copra is sundried and is *packaged for transportation to a copra mill for processing.*

Mr Z is not a produce supplier because his supply does not fall within the definition of raw and unprocessed i.e. the coconut meat has been sun – dried or sun- baked which are natural cooking methods.

Example 6

Mr. D is a fisherman and supplies his catch to a nearby fish market for sale. His total supplies are more than $100,000 per annum.
He owns an eatery that sells kokoda meals (Fijian ceviche). His income from this business is $20,000.

Mr. D is not a produce supplier for VAT purposes because he does not sell 100% produce in a raw and unprocessed state. He can apply to treat the fish supply as a produce supplier division.

PROCESS

15. Only persons who are registered or are in the process of registering for VAT purposes can apply for the creation of a produce supplier division. Application must be made on the VAT form IRS 009.

16. The Registered Person applying for a produce supplier status should provide information on the following:
    (a) how it proposes to maintain the independent system of accounts
    (b) how it proposes to have separate divisions – a sketch of floor plans should be provided
    (c) how it proposes to apportion the VAT input tax credits on overheads used for both processed and unprocessed goods.

17. Wherever possible, FRCA will conduct a site visit to verify the information provided. Otherwise, approval may be granted until such time that a visit can be conducted. The CEO will provide a formal written notice, stating that the application for a *produce supplier division* has been approved.

18. Where it is established at a later date that any of the requirements have not been met, the produce supplier status is automatically disqualified. This means that

the VAT implications under Section 15 of the VAT Act may apply on the total value of supply of the registered person even though VAT was not charged on the supply of produce. The total value of supply will be deemed to be VAT inclusive.

19. For enquiries, please contact Taxpayer Education & Publicity Unit (TEPU) team on: Email: info@frca.org.fj or call on telephone number 3243000.

ATTACHMENT

Section 2 – Interpretation

—Agriculture, without limiting the meaning of the term, includes coconut planting, dairy farming, fruit growing, sugar cane growing, all forms of animal husbandry, poultry keeping, grazing, market gardening, horticulture and epiculture; but does not include silviculture;

—Produce means the produce, in a raw and unprocessed state, from the activity of agriculture and includes any fruits, vegetables and root crops of the forest, fish and other aquatic produce;

—Produce supplier means a person who, in the course or furtherance of all taxable activities carried on by that person, supplies produce and the supply of that produce constitutes at least ninety percent of that person's total value of supplies and the balance of the goods and services supplied by that person is produce but not in a raw and unprocessed state:

Provided that any such person shall not cease to be a produce supplier as a consequence of -
(a) any cessation of, or any substantial and permanent reduction in the size or scale of, any taxable activity carried on by that person; or
(b) the replacement of any plant or other capital assets used in any taxable activity carried on by that person.

—Raw and unprocessed state‖ in relation to produce, means not yet cooked, smoked, or baked; not yet processed by any mechanical or chemical means or otherwise other than through basic separation, cutting of parts, packaging, or freezing (not being the process of freezing through blast, quick or snap freezing); unmanufactured; undiluted; crude; unmilled; unpowdered; unpounded;

Section 15 Imposition of tax on supply

(1) Subject to the provisions of this Decree, the tax shall be charged in accordance with the provisions of this Decree at the rate of nine percent on the supply (but not including an exempt supply) in Fiji of goods and services on or after the 1st day of July 1992, by a registered person in the course or furtherance of a taxable activity carried on by that person, by reference to the value of that supply.

(2) Where, but for this subsection, a supply of goods and services would be charged with tax under subsection (1) of this Section, any such supply shall be charged at the rate of zero percent where that supply is a zero-rated supply.

Section 27 Branch or division

(1) Where a taxable activity is carried on by any registered person in branches or divisions and any branch or division solely supplies produce that registered person may apply in writing to the Commissioner for that branch or division to be treated as a separate person for the purposes of this Decree.

(2) The Commissioner may, upon application made pursuant to subsection (1) of this Section treat any branch or division as a separate person if each branch or division maintains an independent system of accounting, solely supplies produce in a raw and unprocessed state and can be separately identified by reference to being a produce supplier or the location of the branch or division and where any such branch or division is so separately treated, any taxable activity carried on by that branch or division shall, to that extent, be deemed not to be carried on by the registered person first mentioned in subsection (1) of this Section.

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