Remission of Penalties

Tax laws authorises the Fiji Revenue and Customs Service (FRCS) to impose administrative penalties for a range of conduct such as failing to lodge tax returns on time, failing to pay taxes by due date, claiming a deduction that the taxpayer is not entitled to and making a false or misleading statement.

The purpose of the penalty provisions is to encourage taxpayers to take reasonable care to comply with their obligations. In this week's Tax Talk, we will look at the process for taxpayers to request for Remission of Penalties through the Taxpayer Online Services (TPOS) and how it will be processed by FRCS.

Request for Remission of Penalties

The taxpayer can request for remission of the penalty payable by them under section 48(6) of Tax Administration Act 2009 (TAA). This section states that "A person liable to pay a penalty may apply in writing to the CEO for the remission of the penalty payable and such application must include the reasons for the remission."

Section 48(7) of the Tax Administration Act 2009 provides that the CEO may, upon receipt of an application from the taxpayer or on the CEO's own motion remit, in whole or in part, any penalty payable by a person.

The purpose of penalties is to impose a financial cost on a taxpayer as a consequence of a particular behaviour by the taxpayer, so that the taxpayer (s) will be deterred from engaging in the similar type of behaviour in the future.

Some of the different types of penalties that are available for the taxpayer to request for remission include late lodgement penalty, late payment penalty, penalty for failure to maintain proper records, penalty for breach of possession agreements and advance tax shortfall penalty.

The law specifies the conditions under which FRCS can apply a penalty and the amount of the penalty.

Current Process

Taxpayers liable to pay penalty can apply in writing to FRCS CEO for remission of penalties payable explaining the reason why penalty should be remitted. On receiving the application, the CEO may with own discretion remit whole or part of the penalty payable by taxpayer.

The current procedure for remission of penalties will still continue for all tax types that are not available online except for Value Added Tax (VAT), Service Turnover Tax (STT), Environment and Climate Adaptation Levy (ECAL)- Prescribed Services, ECAL - Plastic Bag, Fringe Benefit Tax (FBT) and Telecommunications levy

Applying for Remission of Penalty on TPOS

1. Log on to the FRCS Taxpayer Online Services http://mytpos.frcs.org.fj using username and password.

2. Navigate to the "Requests" tile and click "Waivers" then choose the option for 'Remission of Penalties. Following this, the applicant will be navigated to the first page of the application where he/she must tick the instruction checkbox in order to proceed to the next step of the application.

3. The taxpayer will then be redirected to the page requesting "reference number". If the taxpayer has the reference number of the tax type for which remission of penalty is applied for, they can enter it. The taxpayer can add multiple reference numbers for requesting the remission of penalty. However, in cases where reference number is not available, the taxpayer then can select "No" as an answer. A dropdown menu showing different tax types with corresponding penalties will appear allowing the taxpayer to select the tax type he/she wants to file remission of penalty for.

4. After selecting the tax type, select the period for which the remission for penalty is filed for and then provide the remission amount with reasons for applying the remission of penalty. Remission amount can be applied in full or partial as per taxpayer's need. The taxpayer can also choose to explain the reason in detail.

5. Upload mandatory evidence supporting the reasons for remission for penalty. Following this, click 'Continue to Next Step' to proceed.

6. 'Declaration' Screen will then appear.

7. To complete the application, the applicant must fill the required details on the 'Declaration' screen. On this screen:

   - If the taxpayer is an individual, the Taxpayer Identification Number (TIN) will be prepopulated.

   - If the taxpayer is a non-individual, then the TIN must be entered, and their designation must be selected from a drop-down.

   - The applicant must tick the checkbox to declare that the information provided is correct.

   - Once the declaration checkbox is ticked, 'Submit' button will be enabled and displayed. Once the application is submitted a

confirmation will be emailed. However, the taxpayer will receive a warning message advising on any outstanding issues before submission. While the taxpayer will be able to submit the application, it is advisable that he/she resolves the outstanding matters as the application maybe rejected if outstanding issues continues.

It is important to note that the Statement of Tax Accounts (STA) in TPOS will only show remission for tax types currently live on the Taxpayer Online Services. These include Value Added Tax (VAT), Service Turnover Tax (STT), Environment and Climate Adaptation Levy (ECAL)- Prescribed Services, ECAL -Plastic Bag, Fringe Benefit Tax (FBT) and Telecommunications levy. However, there are other Statement of Tax Accounts that are currently not on online like Income Tax.

One of benefits of using the Taxpayer Online Services is that the processing time for applications are faster. However, taxpayers who have not registered on the online portal or have not updated their information on the system may face difficulties in accessing the online services.

FRCS encourages taxpayers to register for the Taxpayer Online Services and use it. Also check that your information on the online portal is updated.

Amongst other benefits, the online services will help improve ease of doing business. The new system has simplified the processes and enhanced services for our customers. You can access TPOS on http://mytpos.frcs.org.fj.
For more information and feedback please email us on info@frcs.org.fj.