FIJI REVENUE AND CUSTOMS SERVICE

STANDARD INTERPRETATION GUIDELINE 2025-06

TAX ADMINISTRATION ACT 2009 – REFUNDS

This Standard Interpretation Guideline ("SIG") sets out Fiji Revenue and Customs Service's ("FRCS") policy and operational practice in relation to tax refunds under the provisions of Tax Administration Act 2009 (TAA).

It is issued with the authority of the Chief Executive Officer ("CEO") of FRCS.

Legislative references in this SIG are to the Tax Administration Act 2009 and Value Added Tax Act 1991 (VAT Act) (unless otherwise stated).

This SIG is in effect from 1 August 2024 and may need to be reviewed in the event of any relevant legislative amendments.

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PURPOSE

1. The purpose of this SIG is to provide practical guidance on the refund of overpaid tax.
2. It includes the 2024-2025 National Budget amendments that have been effected through Tax Administration (Budget Amendment) Act 2024 (Act No. 4 2024).

INTRODUCTION

3. A tax refund arises when tax is overpaid.
4. For income tax, overpayment can be through the employees' PAYE, the 5% provisional tax withholding; 10% interest withholding tax or the advance tax system. Some of the common reasons for overpayment are:
   - employees leaving employment during the tax year;
   - employees having more than one employment during the tax year;
   - overestimating tax liability for advance tax purposes;
   - exemptions and deductions not considered under the withholding tax systems.
5. For VAT, a refund arises when input tax claims exceed output tax charged, and the common reasons are:
   - expenses incurred in a period where no sales are made;
   - purchase of assets;
   - supplies are zero-rated.
6. A taxpayer must apply for a refund by filing a tax return. Whilst there is a due date for filing returns, a refund claim must be made within 3 years after the end of the tax period in which the refund is due, as shown in the example below -

Tax return period in which refund is due	**Due date to file return**	**Time to claim a refund (within 3 years from YE or taxable period)**
Income tax return for year ending (YE) 31/12/2024	31/03/2025 (3 months after YE)	A refund claim must be made on or before 31/12/2027
VAT return for taxable period 01/07/2024 – 31/07/2024	31/08/2024 (1 month after end of taxable period)	A refund claim must be made on or before 31/07/2027

7. A refund claim made after the end of the 3-year period is not admissible and is not refundable.
8. On the other hand, a valid refund claim may be forfeited if the taxpayer is untraceable, and the amount remains uncollected after 5 years or more.
9. From 1 August 2024, a valid uncollected refund that has been forfeited, can be used to offset future tax payable[1].
10. Examples illustrated in this SIG demonstrate the CEO's interpretation on the tax implications for refunds. The examples do not cover the infinite number of factual scenarios that may arise. The relevant legislative provisions must be considered and applied to each case on its particular facts. That is, conclusions should not be drawn by determining whether the facts of a particulars case may be analogous with particular examples, but rather on the basis of applying the correct tests established by the law.
11. The full text of the legislative provisions is contained in the Appendix.

[1] Tax Administration (Budget Amendment) Act 2024 (Act No. 4 2024) [Section 33]

LEGISLATIVE ANALYSIS

Refunds

12. Section 33 TAA sets out the administrative procedures for refunds. This section applies if a taxpayer is entitled to a refund under any tax law.

13. The CEO must first apply the amount of the refund against any tax owing by the taxpayer under any tax law (as listed in Schedule 1 and 2 of TAA) or the Customs and Excise laws. It does not apply to any tax owing under the Water Resource Tax Act 2008 or the Airport Departure Tax Act 1986[2].

14. Any remaining balance must then be paid and the taxpayer notified in writing of the decision to offset part of the refund against other tax owing[3].

15. **Example 1**

> Ms. Well is due for an income tax refund of $500 for the tax year 2024. When the refund was processed, Well's tax arrears was $267. Under Section 33 (1) TAA, the CEO is required to do the following:
>
> 1. Apply the refund to any outstanding tax
>
> | | | |
> |---|---|---|
> | 2024 refund | | $500 |
> | Less tax owing: | | |
> | ▪ Customs duty | $113 | |
> | ▪ VAT | $154 | <u>267</u> |
> | Balance | | <u>$233</u> |
>
> 2. Refund $233 and notify taxpayer in writing of the decision to offset the tax arrears.

Small amounts

16. Any tax payable not exceeding $10.00 does not have to be collected and any overpayment that does not exceed $10 does not have to be refunded.[4]

17. **Example 2**

> Sefo's net income for 2024 from grass cutting services provided to XCo was $32,000.
>
> Tax payable for the tax year 2024 was $360 calculated as follows:
>
> Tax payable = 18% of excess over $30,000
> = 18% x ($32,000 - $30,000)
> = 18% x $2000
> = <u>$360</u>
>
> Provisional tax deducted by XCo from payments made to Sefo was $365.00.
>
> $5.00 is a small amount therefore will not be refunded under Section 33(2) TAA.

Bank accounts

18. Refunds are paid into bank accounts held at a commercial trading bank. Taxpayers must provide correct information on their personal bank account details[5].

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[2] Section 33 (1)(a) TAA
[3] Section 33 (1)(c) TAA
[4] Section 33 (2) TAA
[5] Section 33(3) TAA

19. The CEO has issued a separate SIG on bank accounts [SIG 2021-05]. This can be accessed on the FRCS website or directly through the link below: https://www.frcs.org.fj/wp-content/uploads/2021/04/SIG-2021-05-Payment-of-Refunds-Section-333-TAA-2009.pdf

Tax notices

20. The CEO is required to issue a notice of assessment when a taxpayer has a refund[6]. Under the self-assessment system which has been implemented for all tax processes, the notice will be issued when a return is filed through the Taxpayer Online System (TPOS).

Time to provide returns and /or information

21. A refund claim is not admissible if the person:
    i) has not filed any other returns or documents required by the CEO; or
    ii) does not make the refund claim within 3 years after the assessment period for which the refund is due.

22. This also applies to persons whose incomes are subject to a final withholding tax such as salaries/wages or interest. If tax is overpaid, a return must be filed to claim a refund.

23. **Example 3**

Scenario 1

Benice had 2 employments and is due for a refund of $200 for the tax year 2024.

What are the tax implications?

CEO's position:

To claim the refund, she must file a tax return by 31 December 2027.

Scenario 2

Benice is due for a refund of $200 for the tax year 2024.
She filed the income tax return on 31 March 2025.
Her VAT return for October – December 2023 has not been filed

What are the tax implications?

CEO's position:

The $200 will be held until the outstanding returns are processed or may be forfeited if it remains unclaimed after 5 years.

Scenario 3

Janice is a sole trader and was due for an income tax refund for the year ending 31 December 2024.
Due date to file return - 31 March 2025 and due date to claim a refund - 31 December 2027.

What are the tax implications?

CEO's position:

- If the return is filed on 31 December 2027, the overpayment is refundable
- If the return is filed on 31 December 2027 but the CEO requires more information, the overpayment is still refundable if the missing information is provided.
- If the return is filed on 1 January 2028, Janice loses the right to claim the refund. That is, the refund claim is not admissible per section 33 (5) TAA.

Forfeited refunds and full/partial reinstatement

24. Uncollected refunds may be forfeited and the amount paid into the Fiji Government Consolidated Fund Account[7] The forfeiture under Section 33 (5A) only applies to valid refunds that remain unpaid.

[6] Section 33(4) TAA
[7] Section 33 (5A) TAA

25. Some of the common reasons for unclaimed or uncollected refunds are:
    - incorrect bank account details;
    - returns not filed for some periods outstanding;
    - taxpayer is deceased and the legal representative has not come forward to settle the deceased's tax affairs.

26. For uncollected valid refund claims, the amount **will only** be forfeited after FRCS has exhausted all means to trace the taxpayer.

27. With effect from 1 August 2024, forfeited refunds can be used to offset a taxpayer's future debts, under the provision of section 33 (5B) which states:

    "(5B) The forfeited refund under subsection (5A) can be used to offset a taxpayer's tax debt and penalty after which the balance of refund will remain forfeited."

28. **Example 4**

__Scenario 1__: __Forfeiture of Income Tax Refund__

FRCS assessed Ben's 2014 Income Tax return in January 2015. Ben's refund ($500) was deposited into his nominated bank account. However, the refund was returned as the bank account was closed. FRCS was unsuccessful in contacting Ben as he was working overseas.

In September 2022, FRCS published a list of unclaimed refunds for 5 years or more and the due date to file a claim (31 December 2022) in the print media and on the FRCS social media page.

Ben did not come forward to claim his refund by 31 December 2022.

Can the CEO forfeit Ben's refund of $500 ?

CEO's Position: Yes, the CEO can forfeit Ben's income tax refund of $500 as he did not make a claim by 31 December 2022.

__Scenario 2: Reinstatement of part of forfeited income tax refund__

Ben returned to Fiji in 2024. His tax liability for the tax year 2024 was $300.

The CEO can use $300 from the $500 that was forfeited after 31/12/2022 and offset it against the 2024 tax

2024 tax payable	$300.00
Amount reinstated	$300.00
Tax payable	0

The remaining $200 ($500 - $300) will remain forfeited per section 33 (5B) TAA.

Diplomatic Missions and International organisations

29. The time restrictions to claim a refund do not apply to a mission, international organization or international body that is exempt from tax in accordance with any written law.

30. The CEO has issued a separate SIG on refunds for these bodies [SIG 2020-05]. This can be accessed on the FRCS website or directly through the link: https://www.frcs.org.fj/wp-content/uploads/2020/02/SIG-05.pdf

VAT refunds

31. Section 65 VAT Act 1991 provides for the treatment of the refundable amount of excess input tax credits.

32. A registered person may have excess input tax credits in a particular taxable period for various reasons such as:
    - the acquisition of substantial capital equipment;
    - a large import of trading stock;
    - no sales during start up period;
    - temporary downturn in sales; and
    - zero-rated supplies.

33. Where the CEO is satisfied that a registered person has filed a valid return , the refund amount is treated as "overpaid tax" for the purposes of Section 33 TAA.

34. No refund can be made after 3 years from the end of the taxable period to which a refund relates. This period can be extended only if the registered person has made a written application for the refund before the end of that 3 year period (Section 65 (1) proviso).

35. **Example 5**

XCo was due for a refund for the taxable period 1 August to 31 August 2023.

Due date to file return – 30 September 2023

Due date to claim a refund - 31 August 2026.

What are the tax implications?

CEO's position:

- If the return is filed on 31 August 2026, the overpayment is refundable
- If the return is filed on 31 August 2026 but the CEO requires more information, the overpayment is still refundable if the missing information is provided.
- If the return is filed on 1 September 2026, XCo loses the right to the refund per Section 65 (1) VAT Act and Section 33 (5) TAA.

36. VAT credits can be held and set off against other tax debts or until outstanding returns and information are provided [8].

37. The CEO may also hold refunds and offset it against any future tax payable by that registered person for subsequent taxable periods. In such cases, any amount so set off is treated as a payment received from that registered person[9].

[8] Section 65(5) and Section 65 (8) VAT Act 1991
[9] Section 65 (6) VAT Act 1991

38. **Example 6**

ACo's monthly tax payment is usually around $40,000 per month. ACo made a large purchase in March 2024. Information in the March 2024 return:

Output tax $20,000

Less: Input tax $100,000

Refund due **$80,000**

Can the CEO hold the $80,000 refund and offset it against future tax payable?

CEO's position:

Yes. If the future tax payable is $110,000 (April $60,000 and May $50,000), the $80,000 will be allocated as follows:

Total refund due $80,000

Less **April tax payable** $60,000

Balance $20,000

ACo doesn't need to make any payment for April

Balance of refund due $20,000

Less **part of May tax payable** $20,000

Balance $0

ACo will be required to pay the balance $30,000 ($50,000 - $20,000)

The $80,000 will be treated as a tax payment.

Set-off of Refunds When Assessments Re-opened

39. The CEO can offset refunds upon investigation of a registered person's liability over a number of taxable periods where:

- tax is assessed in respect of a taxable period for which no assessment has been made previously; or
- an assessment is altered so as to increase the amount of tax payable; and
- in respect of any taxable period or periods within that group there is a refund due.

40. The CEO may set off the refund against the tax payable even if the time limit for making refunds has expired[10].

41. **Example 7**

In March 2025, an audit was conducted on BCo's VAT affairs for the years 2018 to 2021. No returns were filed during this period, however BCo had valid tax invoices and the tax result was as follows:

Taxable period	Refund	Payable	Assessment
2018	$80,000	$0	$80,000cr
2019	$0	$100,000	$100,000dr
2020	$20,000	$150,000	$130,000dr

[10] Section 66

			$150,000 dr	
Any refunds arising from assessments for the returns under audit will be offset against tax payable ones as provided in Section 66 VAT Act 1991.				

42. For further information and clarification in regard to this SIG, please email us at tipu@frcs.org.fj

APPENDIX

ACT NO. 4 OF 2024

I assent.

W. M. KATONIVERE
President

[12 July 2024]

AN ACT

TO AMEND THE TAX ADMINISTRATION ACT 2009

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Tax Administration (Budget Amendment) Act 2024.

(2) This Act comes into force on 1 August 2024.

(3) In this Act, the Tax Administration Act 2009 is referred to as the "Principal Act".

Section 30 amended

2. Section 30(7) of the Principal Act is amended by deleting "10 consecutive days" wherever it appears and substituting "30 consecutive days".

Section 33 amended

3. Section 33 of the Principal Act is amended by—

(a) in subsection (1)*(a)* after "law", inserting ", other than water resource tax or tax imposed by the Airport Departure Tax Act 1986"; and

(*b*) after subsection (5A), inserting the following new subsection—

"(5B) The forfeited refund under subsection (5A) can be used to offset a taxpayer's tax debt and penalty after which the balance of refund will remain forfeited.".

Section 36A inserted

4. The Principal Act is amended after section 36 by inserting the following new section—

"*Collection of bulk information*

36A. The CEO may, for the purposes of this Act, collect bulk information in accordance with prescribed regulations.".

Section 46C inserted

5. The Principal Act is amended after section 46B by inserting the following new section—

"*Penalty in case of VAT evasion*

46C.—(1) Any registered person under the Value Added Tax Act 1991 who—

(*a*) makes a statement to a tax officer that is false or misleading in a material particular or omits from a statement made to a tax officer any matter or thing without which the statement is false or misleading in a material particular;

(*b*) evades, or does any act with intent to evade, the payment of any amount of tax payable (the amount referred to as "deficient tax");

(*c*) causes, or does any act with intent to cause, the refund to that person by the CEO of an amount in excess of the amount properly so refundable to that person; or

(*d*) defaults in the performance of any duty imposed upon that person by the Value Added Tax Act 1991 or regulations made under the Value Added Tax Act 1991 with intent to—

(i) evade the payment of any deficient tax; or

(ii) cause the refund to that person by the CEO of an amount in excess of the amount properly refundable to that person,

is liable for a penalty equal to 200% of the deficient tax.

(2) No false or misleading statement penalty applies in the circumstances specified in section 46(5).

(3) Section 46(6) applies in determining whether a person has made a statement to a tax officer.".

Passed by the Parliament of the Republic of Fiji this 12th day of July 2024.

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[Section 33] Refunds

(1) If the CEO is required to pay a refund of overpaid tax to a taxpayer under a tax law, the CEO must— a) first apply the amount of the refund against any tax or duty owing by the taxpayer under any tax, customs or excise law; and then

b) refund the balance (if any) to the taxpayer,

c) notify the taxpayer, or his or her tax agent or representative, of his or her decision in writing.

(2) Notwithstanding anything in any other tax law, the CEO, may refrain from collecting or refunding tax if the amount of tax to be collected or refunded does not exceed $10.

(3) The CEO must only pay a refund of overpaid tax to a taxpayer under a tax law to the taxpayer's bank account held at a commercial trading bank.

(4) The CEO must issue a notice of assessment to the taxpayer.

(5) A claim for a refund under a tax law is not admissible if the person making the claim has failed to—

(a) file a tax return or lodge any other document as required under a tax law; and

(b) make the claim within 3 years after the end of the year of assessment for which the refund is due unless the refund is attributable to an error made by the Fiji Revenue and Customs Service.

(5A) If a refund remains uncollected for a period of 5 or more years from the date the refund becomes due, the CEO may forfeit the amount payable by paying the sum into the Consolidated Fund.

(6) Subsection (5) does not apply to a mission, international organisation or international body that is exempt from any tax in accordance with any written law.

(7) If a non-resident person derived a fee for the provision of a professional service and paid Non-resident Withholding Tax to the Fiji Revenue and Customs Service in respect of the provision of the professional service contrary to an international tax treaty to which Fiji is a party, the non- resident person may make a claim to the CEO for a refund of the Non-resident Withholding Tax and the CEO is required to facilitate and pay the refund in accordance with the Mutual Agreement Procedure under the international tax treaty to which Fiji is a party.

8) Notwithstanding anything in this section, an application for a refund made by a resident who has paid Non-resident Withholding Tax in relation to professional services to the Fiji Revenue and Customs Service in respect of the provision of the professional service contrary to an international tax treaty to which Fiji is a party is not admissible if the person making the claim makes the claim after 31 December 2022.

SCHEDULE 1

(Section 2) - Tax Assessments

1) The following are tax assessments for the purposes of this Act— a) an assessment of income tax, including a self-assessment under section 8, and including a nil or loss notice;

b) the ascertainment of provisional tax or advance payments of tax under Subdivision 3 of Division 2 of Part 9 of the Income Tax Act 2015;

c) an assessment of VAT, including a self-assessment under section 8;

d) an assessment of capital gains tax, including a self-assessment under section 8;

e) an assessment of penalty or additional tax under a tax law;

f) a default assessment of tax under section 9;

g) an advance assessment of tax under section 10;

h) an assessment including a self-assessment of gambling turnover tax under section 8;

i) an amendment of an assessment referred to in paragraphs (a) to (g); j)

k) an assessment of fringe benefit tax, including a self-assessment under section 8;

l) an assessment of telecommunications levy, including a self-assessment under section 8; and

m) an assessment of environment and climate adaptation levy, including a self-assessment under section 8.

2) The determination of the withholding tax payable is not a tax assessment

SCHEDULE 2

(Section 2) - Tax Laws

1) The following are tax laws for the purpose of this Act—

a) this Act;

b) the Gambling Turnover Tax Act 1991;

c) –

d) the Income Tax Act 2015;

e) the Environment and Climate Adaptation Levy Act 2015;

f) the Value Added Tax Act 1991;

ga) the Airport Departure Tax Act 1986;

h) any other Act or any other written law (other than the customs and excise legislation) under which a tax or levy is imposed if responsibility for the general administration of the tax or levy is imposed on the CEO.

2) A reference to a tax law in paragraph (1) includes any regulations or other subsidiary legislation made under the law.

Income Tax

Section 8 (2)

(2) The Income Tax imposed under subsection (1) for a tax year is computed by applying the rate or rates of Income Tax applicable to the person prescribed by Regulations made under this Act to the chargeable income of the person for the year, with any tax credits allowed to the person for the year, subtracted from the resulting amount.

Section 53 (6)

A tax credit or part of a tax credit allowed to a person under subsection (4) for a tax year that is not credited under section 8(3) for the year is refunded to the person in accordance with section 33 of the Tax Administration Act 2009.

(7) Income derived, or expenditure or losses incurred

Section 110 (10)

(10) Each advance payment of Income Tax paid by a person during a tax year is credited against the person's Income Tax liability for the year in accordance with section 8(3) and if the amount of the credit allowed exceeds the Income Tax due for the year, the amount of the excess is refunded to the person.

The individual tax rates for the 2024 tax year onwards

Chargeable Income ($)	Resident Individuals Income Tax $	Non-Resident Individuals Income Tax $
0 - 30,000	Nil	20% of excess over $0
30,001 - 50,000	18% of excess over $30,000	$6,000 + 20% of excess over $30,000
50,001 - 270,000	$3,600 + 20% of excess over $50,000	$10,000 + 20% of excess over $50,000
270,001 - 300,000	$47,600 + 33% of excess over $270,000	$54,000 + 33% of excess over $270,000
300,001 - 350,000	$57,500 + 34% of excess over $300,000	$63,900 + 34% of excess over $300,000
350,001 - 400,000	$74,500 + 35% of excess over $0,000	$80,900 + 35% of excess over $0,000
400,001 - 450,000	$92,000 + 36% of excess over $400,000	$98,400 + 36% of excess over $400,000
450,000 - 500,000	$110,000 + 37% of excess of $450,000	$116,400 + 37% of excess over $450,000
500,001 - 1,000,000	$128,500 + 38% of excess over $500,000	$134,900 + 38% of excess over $500,000
1,000,001 +	$318,500 + 39% of excess over $1,000,000	$324,900 + 39% of excess over $1,000,000

[Section 65] Refund of excess tax

(1) Subject to this section, in any case where the Chief Executive Officer is satisfied that tax has been paid by a registered person in excess of the amount properly calculated in accordance with this Act in respect of any taxable period, he or she shall refund the amount paid in excess, provided that no refund shall be made under this subsection after the expiration of the period of 3 years immediately after the end of the taxable period, unless written application for the refund is made by or on behalf of the registered person before the expiration of the period.

(2) Subject to this section, where the Chief Executive Officer is required to refund any amount to any registered person pursuant to section 38(4) or 39(8), the Chief Executive Officer shall refund to that registered person the amount required to be refunded pursuant to section 38(4) or 39(8) not later than— the end of the month following the month in which the return of that registered person was received by the Chief Executive Officer; or
the end of the month following the month in which the return was due to be furnished by that registered person pursuant to section 33(1), whichever is the later.

(3) Notwithstanding the provision of subsection (2), where any registered persons claim deductions under section 86, making them eligible for a refund under section 39(8), the Chief Executive Officer shall in respect of trading stock acquired on or after 1 July 1991 and held on the 1 July 1992 cause that refund to be paid no later than 6 months from the date the return was received by the Chief Executive Officer and the provisions of section 67 shall not apply unless the Chief Executive Officer has failed to refund that amount within 6 months as provided under this subsection.

(4) (4A)

(5) Where any registered person, in respect of a taxable period, has failed to submit returns for any taxable period as required by this Act, the Chief Executive Officer may withhold payment of any amount refundable in accordance with subsection (1) or section 38(4) or 39(8) or any amount of interest payable under section 67, until the registered person has complied with that requirement and paid the amount of tax payable.

(6) Notwithstanding anything in subsection (2), where the Chief Executive Officer is required to refund any amount to a registered person pursuant to section 38(4) or 39(8) or any interest payable under section 67 and the Chief Executive Officer is of the opinion that the amount should not be refunded, the Chief Executive Officer may withhold that amount and set off that amount against any future tax payable by that registered person in respect of any subsequent taxable period or otherwise set off that amount in terms of subsection (4)(b) and treat any amount so set off as a payment received from that registered person.

(7)
(8) Notwithstanding anything in this section no refund shall be payable where the registered person, his or her agent, his or her representative or any person associated with the registered person has not complied with any request for any information, documents or co-operation by the Chief Executive Officer.

(9) Notwithstanding anything in this Act, no refund shall be transferred or assigned amongst registered persons.

[Section 66] Tax paid in excess may be set off against additional tax where assessment re-opened

In any case where, upon the investigation by the Chief Executive Officer of the liability of a registered person for tax over a group of taxable periods—

the Chief Executive Officer assesses the registered person with tax for any taxable period in respect of which no assessment has been made previously or alters an assessment for any taxable period so as to increase the amount thereof; and

the Chief Executive Officer is satisfied that in respect of any taxable period or taxable periods within that group of taxable periods, tax has been paid in excess of the amount properly payable,

he or she may, in his or her discretion and to the extent that in his or her opinion is equitable, allow any amount so paid in excess to be deducted from or set off against any tax payable for any taxable period or taxable periods, notwithstanding that the time limited for the making of a refund of any tax so paid in excess may have expired