



**PRACTICE STATEMENT**  
**No: 22/2016**

<b>SUBJECT</b>	<b>FIJI REVENUE &amp; CUSTOM AUTHORITY: DEDUCTIBILITY OF ENTERTAINMENT EXPENSES</b>
<b>DATE OF EFFECT</b>	1 January 2016
<b>CONFIDENTIALLY STATUS</b>	May be released to the public
<b>LEGISLATIVE REFERENCES</b>	<i>Income Tax Act 2015</i> <i>Section 21, 22 &amp; 106</i>
<b>PRATICE CO-ORDINATOR</b>	National Manager Revenue Collection

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## **INTRODUCTION**

1. This Practice Statement sets out the official tax policy on the deductibility of entertainment expenses for income tax purposes. It is issued with the authority of the Chief Executive Officer of the Fiji Revenue & Customs Authority.
2. There is no specific reference in the *Income Tax Act* to “entertainment expenses”, so the deductibility of such expenses is governed by the general provisions on allowable and non-allowable deductions. These are subject to the record-keeping requirements.

## **LEGISLATIVE BASIS**

3. Section 21 (1) (a) of the *Income Tax Act 2015* provides for the deduction of expenditures and losses for a tax year. It states:  
*“21(1) Subject to this Act, a person is allowed a deduction for a tax year for—*  
(a) *an expenditure or loss on revenue account to the extent incurred by the person during the tax year in deriving income included in gross income;”*
4. This section states the basic deduction rule and in relation to entertainment expenses, it means that a person is allowed a deduction provided it was incurred during the tax year, by the person, in deriving gross income. To qualify for a deduction, there must be a sufficient connection between the entertainment expenditure and the derivation of gross income so that it can be said that the expenditure was incurred in deriving gross income.
5. Section 22 (1) (a) of the *Act* denies a deduction for an expenditure or loss to the extent to which it is of a domestic or private nature. It states –  
*“22(1) Except as provided in this Act, no deduction is allowed for the following*  
(a) *an expenditure or loss to the extent to which it is of a domestic or private nature;”*
6. This means that entertainment expenditure incurred for a purpose other than deriving gross income such as for a private purpose (e.g. personal consumption) is not allowed as a deduction.
7. Section 106 of the *Act* sets out the record-keeping obligations of persons liable to pay income tax. Proper books of account must be kept to record all transactions necessary in order to ascertain the profit or gain made.  
*“106.—(1) A person must keep such accounts, documents and records to enable the computation of the Income Tax ...payable by the person for a tax year...”*  
*(3) The CEO may disallow a claim for a deduction for an expenditure or loss if a person is unable, without reasonable excuse, to produce a receipt or other record of the*

*expenditure or loss, or to produce evidence relating to the circumstances giving rise to the claim for the deduction.”*

### **RULING ON DEDUCTIBILITY**

8. It is recognized that many professionals and businesses need to entertain clients and suppliers, either existing or prospective, and a wide range of other people they network with in connection with their profession or business. In this aspect the deductibility of entertainment expenses are valid as it is incurred in the derivation of total income.
9. It is also recognized that taxpayers engage in entertainment of a private nature, which is not deductible. Care has to be taken in evaluating claims for expenses of this nature, in case the claim contains a mix of valid entertainment and private entertainment. The experience of overseas tax jurisdictions shows that claims for entertainment expenses have been abused in the past, so much so that some jurisdictions have legislated to deny any deductibility at all for the expense.
10. In view of the above, claims for entertainment expenses will only be allowed where they can be supported in accordance with the record-keeping criteria detailed below.

### **RECORD-KEEPING REQUIREMENTS**

#### **11. Criterion 1: Receipt**

Claims for entertainment expenses must first be able to be substantiated, either at the assessment stage or the audit stage, by a receipt showing that the money has actually been spent. For example, a restaurant bill must be provided showing at least: the restaurant name, the date, the amount and the fact that the bill has been paid. If the claim cannot meet Criterion 1 it will be disallowed. If the Claim meets Criterion 1 it is next tested under Criterion 2.

#### **12. Criterion 2: Not personal/wholly business**

The second criteria is aimed at meeting the tests in Section 21 (1) (a) and Section 22 (1) (a) to ensure the expense is not private and is wholly and exclusively for business. To succeed against this Criterion, the claimant must demonstrate a connection between the expense and the income-generation of the profession or business.

13. The method by which the claimant demonstrates that the expense meets this Criterion is by keeping a record in the prescribed format. The record may be a diary, a log, a schedule, a summary or any written document as long as it contains the following prescribed data fields:

- (i) the date the entertainment took place;
- (ii) the place/manner in which it took place;
- (iii) the names of the persons entertained;

- (iv) the connection with the profession or trade; and
- (v) the amount.

14. An example of an acceptable record format is given in paragraph 20 of this Practice Statement, partly completed with some examples of types of deductible entertainment.
15. The record-keeping system described above will usually be accepted at face value. Where information leads to the conclusion that it has been falsified, e.g. an entry in the diary described as a business meeting was actually a private one, or did not take place at all, the claimant will be prosecuted for making false statements and claims.
16. At times entertainment is conducted at home. As it is impossible to separate the business and private components of such expense, this cost will not be allowed.
17. Where the entertainment involves the provision of kava, this will only be allowed where it has been provided as part of traditional ceremonies, and only in non-private context e.g. formal ceremonies to welcome a guest or farewell an employee of the business.
18. Entertainment of staff by an employer is a valid expense if it is used as an incentive to reward performance e.g. staff Christmas party, annual sports day or reward for meeting sales targets. However, where such entertainment is an ongoing event (e.g. weekly cocktail irrespective of performance) it is more in the nature of a benefit provided to employees. In such a case, a deduction should only be allowed to the employer if the employee has been taxed on the entertainment as a benefit.
19. Where an entertainment expense is allowed as a deduction for income tax it will also be treated as such for Value Added Tax purposes, and vice versa.

**SAMPLE RECORD for ENTERTAINMENT EXPENSES**

20. Sample record to support claim for entertainment expenses

<u>Date</u>	<u>Place</u>	<u>Persons entertained</u>	<u>Purpose</u>	<u>Amount</u>
15 May 2016	Company boardroom (La's Catering hired )	XYZ Ltd executives	Prospective buyers for our widgets	350.00
26 September	Taco's Floating Restaurant	Operation Manager for High-Tec	Discuss contract for purchase of raw	150.00

2016		Suppliers	materials	
15 November 2016	Purchase yaqona and lovo food for traditional ceremony.	Government officials and business leaders	Opening of new office in Ba	2,500.00