



**PRACTICE  
STATEMENT No. 28/2016**

<b>SUBJECT</b>	<b>FIJI REVENUE &amp; CUSTOMS AUTHORITY:  ADVANCE TAX FOR PERSONS OTHER THAN A COMPANY - Sole traders, trustees of trusts and estates etc.</b>
<b>DATE OF EFFECT</b>	1 January 2016
<b>CONFIDENTIALITY STATUS</b>	May be released to the public
<b>LEGISLATIVE REFERENCES</b>	<i>Income Tax Act 2015, Section 110 Tax Administration Decree 2009</i>
<b>PRACTICE CO-ORDINATOR</b>	National Manager Revenue Collection

<b><u>INDEX</u></b>	
Introduction .....	2
Legislative basis .....	3
Application.....	3
Process.....	5

## **INTRODUCTION**

1. The purpose of this Practice Statement is to provide information on advance tax payments (and the penalty for underpayment) for persons other than companies. It applies to advance tax payable in the 2016 and subsequent tax years. This statement is issued with the authority of the Chief Executive Officer of the Fiji Revenue & Customs Authority (FRCA).
2. Advance tax is an amount payable during the current year towards the actual income tax payable on a person's chargeable income for that year. The advance tax payment system is designed to assist taxpayers to pay their tax in installments before the actual tax payable is known.
3. The amount of advance tax to pay is based on the person's income tax payable for the preceding (previous) tax year. For example, 2016 advance tax is based on 2015 tax payable, 2018 advance tax is based on 2017 tax payable.
4. The due dates for advance tax depends on a person's tax year. For persons other than companies, the standard tax year is the calendar year (1<sup>st</sup> January – 31<sup>st</sup> December). The due dates and amount to pay is tabled below.

<b>Installments</b>	<b>Due date in each tax year</b>	<b>Amount to pay</b>
1 <sup>st</sup>	30 <sup>th</sup> April	33 $\frac{1}{3}$ % of the amount payable
2 <sup>nd</sup>	31 <sup>st</sup> August	33 $\frac{1}{3}$ % of the amount payable
3 <sup>rd</sup>	30 <sup>th</sup> November	33 $\frac{1}{3}$ % of the amount payable
If the total advance tax in a tax year is less than \$120, it is due on 30 <sup>th</sup> September		

5. New taxpayers and those that do not know their tax payable for the previous year must 'estimate' their income for the current year. The estimated tax payable will be the advance tax for the current year. The CEO can also estimate the income and advance tax payable.
6. A person who believes that the tax payable for the current year will be significantly less than the tax payable for the previous year can file a statement of the income tax estimated to be payable by the person for the year.
7. In cases where estimation is required, any withholding tax paid (e.g. PAYE, withholding tax on contractual payments) during the current year will not be taken into account in the calculation of tax payable.
8. Taxpayers may make voluntary payments of advance tax in addition to the amount they are required to pay in installments.
9. A penalty of 25% will apply for any late payment of advance tax. An additional monthly 5% penalty will apply on any amount that remains

unpaid. A 40% penalty also applies on any short payment of advance tax due to an incorrect estimate.

### **LEGISLATIVE BASIS**

10. The payment of advance tax and the due dates are covered in section 110 (1) and (2) of the *Income Tax Act* 2015. Section 110 (3) sets out the formula for calculating advance tax as follows-

$$33\frac{1}{3}\% \times (A-B)$$

Where:

- A is the person's assessed income tax liability for the preceding (previous) year after reduction of any allowable foreign tax credit; and
  - B is the total allowable withholding tax credits.
11. Under Section 110 (10), advance tax paid is allowed as a credit in the assessment of a person's actual income tax payable for the year. (See paragraph 13)
12. Sections 110 (4) to 110 (9) provides for estimations. Once a statement is filed, it remains in force for the rest of the year or until the person files a revised estimate. (Further guidance is given in paragraphs 21 - 32)

### **APPLICATION**

#### **Voluntary Advance Tax Payments**

13. When a taxpayer lodges its return for a tax year, advance tax paid for that year is credited against the person's actual income tax payable and this may result in the following -
- there will be a refund if the advance tax paid is more than the income tax assessed;
  - if the advance tax is less than the income tax assessed, the person will have to pay the remaining tax by the due date given in the notice of assessment.
14. Sometimes, the actual income tax payable is high and taxpayers often have difficulties in paying it by the due date. In this regard, taxpayers are encouraged to make voluntary payments of advance tax in addition to the amount they are required to pay in installments.

#### **Calculation of Advance Tax Examples**

15. Example 1: Narayan, a sole trader, is required to pay \$120,000 advance tax in 2017. The amount to pay is based on his tax payable for the tax year 2016:

- (i) 2016 income tax assessed \$160,000 less \$10,000 allowable foreign tax credit;
  - (ii) \$30,000 withholding tax credits
- Actual income tax payable for 2016 - \$120,000 (\$160,000 - \$40,000)

Mr. Narayan : 2017 Advance tax payable and due dates

	Advance tax based on 2016 tax payable	Due dates for payment
1 <sup>st</sup>	$= 33\frac{1}{3}\% \times [(\$160,000 - \$10,000) - \$30,000]$ $= 33\frac{1}{3}\% \times \$120,000$ $= \underline{\$40,000}$	30 <sup>th</sup> April 2017
2 <sup>nd</sup>	$= 33\frac{1}{3}\% \times [(\$160,000 - \$10,000) - \$30,000]$ $= 33\frac{1}{3}\% \times \$120,000$ $= \underline{\$40,000}$	31 <sup>st</sup> August 2017
3 <sup>rd</sup>	$= 33\frac{1}{3}\% \times [(\$160,000 - \$10,000) - \$30,000]$ $= 33\frac{1}{3}\% \times \$120,000$ $= \underline{\$40,000}$	30 <sup>th</sup> November 2017

16. Example 2: Narayan's advance tax for 2018 will be based on 2017 tax payable (\$90,000)

Income tax assessed for the year ended 31 <sup>st</sup> December, 2017	\$100,000
<i>Less: withholding tax credit</i>	10,000
Income tax payable	90,000
<i>Less: Advance tax paid</i>	<u>120,000</u>
Difference: payable/(refundable)	<u>(\$30,000)</u>

Mr. Narayan : 2018 Advance tax payable and due dates

	Advance tax based on 2017 tax payable	Due dates for payment
1 <sup>st</sup>	$= 33\frac{1}{3}\% \times (\$100,000 - \$10,000)$ $= 33\frac{1}{3}\% \times \$90,000$ $= \underline{\$30,000}$	30 <sup>th</sup> April 2018
2 <sup>nd</sup>	$= 33\frac{1}{3}\% \times (\$100,000 - \$10,000)$ $= 33\frac{1}{3}\% \times \$90,000$ $= \underline{\$30,000}$	31 <sup>st</sup> August 2018
3 <sup>rd</sup>	$= 33\frac{1}{3}\% \times (\$200,000 - \$50,000)$ $= 33\frac{1}{3}\% \times \$90,000$ $= \underline{\$30,000}$	30 <sup>th</sup> November 2018

*Note: Even though the overall tax result is a refund of \$30,000, advance tax for 2018 is based on the formula (Income tax liability, \$100,000 less withholding tax credits, \$10,000)*

### Late Payment Penalty

17. Where any installment of advance tax (whether based on preceding year or based on an estimate of current year's tax payable) is not paid on time, a late payment penalty (LPP) of 25% applies on the amount unpaid. A 5% penalty applies as well for every month that the tax remains unpaid.

18. Since advance tax is an amount to pay for the time being (i.e. it's a provisional amount), LPP may be adjusted when the actual income tax payable is known. For instance, if the tax result in any tax year is a net loss or there is no actual income tax payable, any LPP imposed for late payment of advance tax must be withdrawn. In other cases there may be no adjustment or partial withdrawal.

19. Example 1

2016 advance tax payable, \$3000 is less than 2016 actual tax payable, \$4000.

Instalment	Advance Tax Payable - 2016	Amount Paid	Actual Tax Payable	Arrears	LPP
1 <sup>st</sup>	\$1,000.00	\$500.00	\$4,000.00	\$500.00	\$125 (500 x 25%)
2 <sup>nd</sup>	\$1,000.00	\$1,000.00		-	-
3 <sup>rd</sup>	\$1,000.00	-		\$1,000.00	\$250 (1000 x 25%)
Total	\$3,000.00	\$1,500.00	\$4,000.00	\$1,500.00	\$375.00

In Example 1, the actual tax payable is more than the advance tax assessed, therefore no LPP adjustment is required.

20. Example 2

2016 Advance tax \$3000 is more than 2016 actual tax payable, \$2400

Instalment	2016 Advance Tax	Amount Paid	Actual Tax Payable	Arrears	Adjusted LPP
1 <sup>st</sup>	\$1,000.00	\$500.00	\$2,400.00	\$300.00	\$75 (300 x 25%)
2 <sup>nd</sup>	\$1,000.00	\$800.00		-	-
3 <sup>rd</sup>	\$1,000.00	-		\$800.00	\$200 (800 x 25%)
Total	\$3,000.00	\$1,300.00	\$2,400.00	\$1,100.00	\$275.00

In Example 2, the actual tax payable for 2016 is less than the advance tax therefore LPP is adjusted based on \$800 per instalment (\$2400/3).

**PROCESS**

**Estimation Where Previous Year's Tax Payable Not Known**

21. The following taxpayers must estimate their income and tax payable for the current year and pay advance tax based on that amount:
- a person who commenced to derive business income during the tax year (this applies to new and existing taxpayers) ; or
  - a person whose previous year's income tax payable is not processed by the first advance tax installment due date.

22. A statement of estimated income must be filed with the CEO by the due date for payment of the first advance tax payment for the year.
23. Example: Mrs. Wong, a new taxpayer estimates that she will make a net profit in 2017 and pay \$4500 tax. She has a contract to supply services valued at \$40,000 to GHI Company and estimates that \$2000 will be paid through withholding in 2017. She files a statement of estimated tax payable in February 2017. An advance tax assessment is raised for \$4500 and the due dates are as follows:

30 <sup>th</sup> April 2017	\$1500 (\$4500 x 1/3)
31 <sup>st</sup> August 2017	\$1500 (\$4500 x 1/3)
30 <sup>th</sup> November 2017	\$1500 (\$4500 x 1/3)

*Note: the \$2000 tax that may be paid through withholding is not taken into account when estimating advance tax (Section 110 (4)) However, any amount actually deducted / received by FRCA by the advance tax due date is treated as an advance tax payment.*

*Using the example above*

- 1) *if no withholding tax remitted by 30/04, Wong has to pay \$1500*
- 2) *if \$500 deducted and remitted by 31/08, Wong has to pay only \$1000 in August*

### **Reduced Advance Tax**

24. A person can pay advance tax based on an estimate of the current year's income if the person believes that the tax payable in the current year will be less than the previous year's tax payable. Application to pay the reduced advance tax and a statement of the estimate must be filed with the CEO before 30<sup>th</sup> June of the tax year.
25. When an estimate is filed with the CEO, any underpayment of advance tax must be paid together with the next installment due.
26. Example: John's advance tax payable for the 2016 tax year is \$6800. An estimate of income and advance tax payable, \$4500, is filed with the CEO in June 2017. The amount payable payments and due dates are as follows:

30 <sup>th</sup> April 2017	
31 <sup>st</sup> August 2017	\$3000 (\$4500 x 2/3)
30 <sup>th</sup> November 2017	\$1500 (\$4500 x 1/3)

### **Advance Tax Shortfall Penalty**

27. This penalty only applies to a person who is required to pay advance tax based on an estimate of the tax payable for the current year.

28. If a person's advance tax in a year is based on an estimate of the income tax payable for that year and the amount paid is less than the actual income tax payable, a 40% penalty will apply on the shortfall.
29. It may not be possible for any person to make an accurate estimation due to change in circumstances, miscalculation or some other reason. In this regard, a 10% margin of error will be allowed for the purpose of determining if any advance tax shortfall penalty applies.
30. The advance tax shortfall penalty will only be imposed if the shortfall difference exceeds 10%.
31. Example

Example 1: Mere paid \$4500 advance tax for 2016, which was based on an estimate of 2016 income tax payable. Due to an unexpected increase in business, there was an increase in profits and actual tax payable for 2016 was \$6000.

Estimated Income Tax Payable	\$4,500
Actual Income Tax Payable	\$6,000
Shortfall Difference	\$1,500 (6,000 less 4,500)
Percentage of shortfall difference	25% ( 1,500/6,000 x 100)
Will The Penalty be imposed	Yes (shortfall difference exceeds 10%)
Amount of Penalty Applicable	\$600 (1,500 x 40%)

Example 2: Jone paid \$5,000 advance tax for 2016, which was based on an estimate of 2016 income tax payable actual tax payable for 2016 was \$5,500.

Estimated Income Tax Payable	\$5,000
Actual Income Tax Payable	\$5,500
Shortfall Difference	\$500 (5,500 less 5,000)
Percentage of shortfall difference	9% ( 500/5,500 x 100)
Will The Penalty be imposed	No (shortfall difference is less than 10%)
Amount of Penalty Applicable	-

### **Review of Advance Tax Shortfall Penalty**

32. Section 110 (12) of the Act allows the CEO to review the advance tax shortfall penalty calculated under section 110 (11) if the advance payment was short paid due to unforeseen circumstances. The relevant sections state :

*“(11) If the estimate, including the estimate of the CEO and any revised estimate, of Income Tax payable by a person for a tax year is less than 100% of the actual Income Tax liability of the person for the year (the difference*

*referred to as the “advance tax shortfall”), the person is liable for a penalty equal to 40% of the person’s advance tax shortfall.*

*(12) No penalty is imposed under subsection (11) if the CEO is satisfied that the reason for the advance tax shortfall was due to circumstances beyond the control of the person and all reasonable care was taken by the person in making the estimate or revised estimate.”*

33. Taxpayers seeking a review of a penalty imposed under section 110 (11) should write to the CEO.
34. Guidelines on the procedures and practice for the review of penalties imposed under section 110 (12) of the *Act* or the *Tax Administration Decree 2009* are given in the Practice Statement on penalties (PS 1/2016)

End