



**PRACTICE
STATEMENT
No. 1/2014
Version 2**

SUBJECT	FIJI REVENUE & CUSTOMS AUTHORITY: COMPANY ADVANCE TAX PAYMENTS
DATE OF EFFECT	1st January 2013
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCES	<i>Income Tax Act 1974</i>
PRACTICE CO-ORDINATOR	National Manager Revenue Collection

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INTRODUCTION

1. The purpose of this Practice Statement is to provide information on the new provisions relating to the payment of advance tax (and penalty for underpayment) by companies. The changes, which are effective from 1 January 2013, apply to advance tax payments due in the 2013 income year and subsequent years. These guidelines represent the Commissioner's interpretation and are issued with the authority of the Chief Executive Officer, of the Fiji Revenue & Customs Authority (FRCA).
2. Advance tax is a way that companies are required to pay the tax towards the expected income tax liability on its income, during the income year. From the 2013 income year, the amount to pay is based on the previous year's assessment.
3. Payments must be made in 3 installments on the 6th, 9th and 12th month of the taxpayer's fiscal year; also known as financial year end (YE). The fiscal year of a company is the 12-month accounting period that ends on its annual balance date. This is usually the calendar year (1 January - 31 December). A company may, upon the Commissioner's approval adopt an accounting period other than 31 December (e.g. 1 April – 31 March, 1 July – 30 June, 1 November – 31 October).
4. When a company lodges its annual income tax return after the end of the income year and the actual tax liability is calculated, advance tax paid is then credited against the tax assessed, to establish if the company has to pay any further tax or dues or refund of all or some of the tax paid. A penalty of 40% is added for any amount short paid on the due date for payment.
5. Where the previous year's assessment is a loss or has not been determined, authorized or responsible officers should make appropriate arrangements to pay tax based on the Company's current year's tax liability.
6. For companies that have adopted an accounting period ending on a date other than 31 December, parts of the fiscal year will fall into two calendar years (e.g. 31/12/2012 and 31/12/2013). In such cases, the calendar year in which *more than half* of the income year falls will be deemed to be the year of income for tax purposes and the profits for the fiscal year is regarded as the profits of that calendar year (Refer section 7, subsection 1, proviso i. of *Income Tax Act*).
Examples:
 - for a company with fiscal year ending on 31 March, the profits for the fiscal year ending 31 March 2013 is deemed to be the profits for the calendar year 2012.
 - for a company with fiscal year ending on 30 June, the profits for the fiscal year ending 30 June 2013 is deemed to be the profits for the calendar year 2012.
 - for a company with fiscal year ending on 31 July, the profits for the fiscal year ending 31 July 2013 is deemed to be the profit for the calendar year

2013.

LEGISLATIVE BASIS

7. In the 2012 Budget Address, the Minister of Finance announced changes to the advance tax payment regime for companies. Further amendments have been made to sections 91 and 92 of the *Income Tax Act* to provide for a simpler advance tax payment system. (Decree No.16 of 2013 of 10 May 2013).The changes are effective from 01 January 2013 and apply to the income year 2013 and subsequent years.
8. Section 91, 55 and 7 respectively states:

“Advance payment of tax by companies

91.(1) Every company shall pay to the Commissioner advance payments on account of tax to be assessed in accordance with the provisions of section 55 in respect of the income of any fiscal year and be payable in instalments in the following manner –

- a) the last day of the sixth month, pay 33.3% equal to the tax assessed in respect of the income of the previous income year;*
- b) the last day of ninth month, pay another 33.3% of the tax assessed in respect of the income of the previous income year;*
- c) the last day of the fiscal year, pay another 33.4 of the tax assessed in respect of the income of the previous income year.*

(2) Notwithstanding subsection (1), when an assessment is issued prior to an advance company tax instalment becoming due, the amount of any tax liability will need to be paid by the date specified in the notice of assessment issued under section 55.

(3) When, in accordance with the provisions of section 55, a notice of assessment is sent to the company by the Commissioner in the ordinary course of events, credit shall be given against the amount of that assessment for the advance payments of tax made as provided in subsection (1).

(4) For the income year 2011, the advance payment of tax by every company to the Commissioner may continue under the percentage and installment payment of tax applied before the commencement of this Decree.

(5) For the income year 2012, the advance payment of tax by every company to the Commissioner may continue under the percentage and installment payment of tax applied before the commencement of this Decree.”

“Notice of assessment to be sent and time for payment

55. (1) After examination of the taxpayer’s return, or, in the case of a taxpayer who has applied to be dealt with through an agent appointed under the provisions of section 56, of the agent’s report, the Commissioner shall send or cause to be sent a notice of assessment to the taxpayer stating therein the date by which the amount of such assessment is to be paid.”

ADVANCE TAX PAYMENT SYSTEM – INCOME YEAR 2013 AND SUBSEQUENT YEARS

9. For the 2013 income year, 100% of the advance tax due is payable in 3 installments during the fiscal or income year.

Advance payment	Due date	Amount payable
1	by end of 6 th month of the fiscal year	<i>33.3% of the tax payable on the previous year’s assessment</i>
2	by end of 9 th month of the fiscal year	<i>33.3% of the tax payable on the previous year’s assessment</i>
3	by last day of the fiscal year	<i>33.4% of the tax payable on the previous year’s assessment</i>

10. Although a company is required to pay advance tax based on the previous year’s income, companies may make sufficient payments towards their assessment for the current year’s projected income or estimated income.

11. The balance of tax payable for the current year, if any, will be payable after the income tax return is processed and on the due date for payment given on the notice of assessment.

Period:	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Oct –
01/08/12 – 31/07/13	2012	2012	2012	2012	2012	2013 (6th month)	2013	2013	2013 (9th month)	2013	2013	2013 (12th month)	2013return of income due
Installments						33.3%			33.3%			33.4%	
Due date						31-Jan			30 Apr			31-Jul	31 Oct *
Advance tax payable						\$28,305			\$28,305			\$28,390	
Assessment	* Return of Income (ROI) due date for companies with YE 31 July is 31 October												

for YE 31/07/13	<p>Actual tax liability for 2013 - \$90,000</p> <p>Advance tax paid based on 2012 tax liability to be credited in 2013 assessment - \$85,000</p> <p>After Return of Income is processed, balance of tax for the 2013 income year (\$5000) payable on due date for payment given on Notice of Assessment</p> <p>NB: In this example there is no shortfall in advance tax payments</p>
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12. The effect of the changes for a company with YE 31 July 2013 is illustrated below - 2013 advance tax payable is \$85,000 (based on 2012 assessed tax liability)

Advance Tax Installments Due Date

Rule:

- i. **1st Advance Tax Installment** is due at the end of 6th month in a same income year.
- ii. **2nd Advance Tax Installment** is due at the end of 9th month in a same income year.
- iii. **3rd Advance Tax Installment** is due at the end of 12th month or at end of fiscal year in an same income year

Assume:

- i. Year 1 (Y1) is the preceding (previous) income year and
- ii. Year 2 (Y2) is the current income year in which advance tax will become payable.

Month for fiscal year ending for Companies	1 st Installment Due Date by the end of 6 th Month in Y2	2 nd Installment Due Date by the end of 9 th Month in Y2	3 rd Installment Due Date last day of the fiscal Y2.
Y1, 31 st January	Y2, 31 st July	Y2, 31 st October	Y2, 31 st January
Y1, February	Y2, 31 st August	Y2, 30 th November	Y2, February
Y1, 31 st March	Y2, 30 th September	Y2, 31 st December	Y2, 31 st March
Y1, 30 th April	Y2, 31 st October	Y2, 31 st January	Y2, 30 th April
Y1, 31 st May	Y2, 30 th November	Y2, February	Y2, 31 st May
Y1, 30 th June	Y2, 31 st December	Y2, 31 st March	Y2, 30 th June
Y1, 31 st July	Y2, 31 st January	Y2, 30 th April	Y2, 31 st July
Y1, 31 st August	Y2, February	Y2, 31 st May	Y2, 31 st August
Y1, 30 th September	Y2, 31 st March	Y2, 30 th June	Y2, 30 th September
Y1, 31 st October	Y2, 30 th April	Y2, 31 st July	Y2, 31 st October
Y1, 30 th November	Y2, 31 st May	Y2, 31 st August	Y2, 30 th November
Y1, 31 st December	Y2, 30 th June	Y2, 30 th September	Y2, 31 st December

Applicable Tax Rate

Rule:

Tax rate of the calendar year in which more than half of the income year falls will be deemed to be the year of income for tax purposes and the profits for the fiscal year is regarded as the profits of that calendar year.

Example

Fiscal Year Ending At	Applicable Year of Tax Rate
31 st January, 2013	2012
28 th February, 2013	2012
31 st March, 2013	2012
30 th April, 2013	2012
31 st May, 2013	2012
30 th June, 2013	2012
31 st July, 2013	2013
31 st August, 2013	2013
30 th September, 2013	2013
31 st October, 2013	2013
30 th November, 2013	2013
31 st December, 2013	2013

Calculation of Advance Tax Payable

Example 1

Company Y's fiscal year ended on 31st December, 2013 with assessed tax payable of \$120,000

Calculation of Advance Tax Payable in following fiscal year.

1st Advance Tax Installment

$$\begin{aligned} \text{Advance Tax Payable} &= 33.3\% \quad \times \quad \text{Tax Assessed in previous year} \\ &= 33.3\% \quad \times \quad \$120,000 \\ &= \underline{\underline{\$39,960}} \end{aligned}$$

Due Date: By the end of 6th month in current fiscal year.
: **30th June, 2014**

2nd Advance Tax Installment

$$\begin{aligned}
\text{Advance Tax Payable} &= 33.3\% \quad \times \quad \text{Tax Assessed in previous year} \\
&= 33.3\% \quad \times \quad \$120,000 \\
&= \underline{\underline{\$39,960}}
\end{aligned}$$

Due Date: By the end of 9th month in current fiscal year.
: **30th September, 2014**

3rd Advance Tax Installment

$$\begin{aligned}
\text{Advance Tax Payable} &= 33.4\% \quad \times \quad \text{Tax Assessed in previous year} \\
&= 33.4\% \quad \times \quad \$120,000 \\
&= \underline{\underline{\$40,080}}
\end{aligned}$$

Due Date: By the end of current fiscal year.
: **31st December, 2014**

Tax Assessment For Fiscal Year 2014

Tax Assessed for Fiscal Year ended 31 st December, 2014	\$100,000
Advance Tax Paid in the fiscal Year	<u>\$120,000</u>
Difference (Overpaid which will be Refunded)	\$ 20,000

Example 2

Company A's fiscal year ended on 31st July, 2013 with assessed tax payable of \$24,000

Calculation of Advance Tax Payable in following fiscal year.

1st Advance Tax Installment

$$\begin{aligned}
\text{Advance Tax Payable} &= 33.3\% \quad \times \quad \text{Tax Assessed in previous year} \\
&= 33.3\% \quad \times \quad \$24,000 \\
&= \underline{\underline{\$7,992}}
\end{aligned}$$

Due Date: By the end of 6th month in current fiscal year.
: **31st January, 2014**

2nd Advance Tax Installment

$$\begin{aligned}
\text{Advance Tax Payable} &= 33.3\% \quad \times \quad \text{Tax Assessed in previous year} \\
&= 33.3\% \quad \times \quad \$24,000 \\
&= \underline{\underline{\$7,992}}
\end{aligned}$$

Due Date: By the end of 9th month in current fiscal year.
: **30th April, 2014**

3rd Advance Tax Installment

$$\begin{aligned} \text{Advance Tax Payable} &= 33.4\% \quad \times \quad \text{Tax Assessed in previous year} \\ &= 33.4\% \quad \times \quad \$120,000 \\ &= \underline{\underline{\$8,016}} \end{aligned}$$

Due Date: By the end of current fiscal year.
: **31st July, 2014**

Tax Assessment for Fiscal Year Ended 31st July, 2014

Tax Assessed for Fiscal Year ended 31 st July, 2014	\$15,000
Advance Tax Paid in the fiscal Year	<u>\$12,000</u>
Difference (Shortfall will be Payable)	\$ 3,000

Other Situations – Tax Liability For Previous Year Not Known

13. There may be cases where the tax payable for the previous year has not been determined or is a loss. The following is provided as a guide to assist companies to pay the current year's tax in installments.

Description of situation	
1. Previous year's tax liability not determined yet (return not lodged or return lodged but not processed yet)	<ul style="list-style-type: none">• advance tax payments may be based on the last assessment issued or an estimate of the current year's tax payable.
2. Previous year's return was a loss	<ul style="list-style-type: none">• no advance tax is due• company may make advance tax payments voluntarily
3. New taxpayer	<ul style="list-style-type: none">• no advance tax is due• company may make advance tax payments voluntarily
4. Current year's income will be less than previous year's assessment	<ul style="list-style-type: none">• provided the Commissioner approves, advance tax will be based on the company's estimate of tax payable for the current year

ADVANCE TAX SHORTFALL – INCOME YEAR 2013

14. The imposition of additional tax is covered in Section 92. For the 2013 and subsequent years, Section 92 (4) has been amended in line with the changes to the method of advance tax payment. A 40% penalty will apply on short payments in any of the advance tax installments.

15. Section 92 states:

“Additional tax payable by companies when advance payments are less by more than 20 per cent of final liability

92. (1) If the amounts of the advance payments of tax required to be paid under the provisions of subsection (1) of section 91 are less by more than 20 per cent, at the expiry of 3 months after the last day of a company’s fiscal year, of 662/3 per cent of the tax for that year of assessment as finally assessed by the Commissioner in accordance with the provisions of section 55, then the company shall be liable to pay to the Commissioner, by way of additional tax, an amount equal to 10 per cent of the difference between the amount of the advance payment made and 662/3 per cent of the liability to tax as finally assessed.

(2) If the amounts of the advance payments of tax required to be paid under the provisions of subsection (1) of section 91 are less by more than 20 per cent, at the expiry of 7 months after the last day of a company’s fiscal year, of 100 per cent of the tax for that year of assessment as finally assessed by the Commissioner in accordance with the provisions of section 55, then the company shall be liable to pay to the Commissioner, by way of additional tax, an amount equal to 10 per cent of the difference between the amount of the advance payment made and 100 per cent of the liability to tax as finally assessed.

(3) The Commissioner may, where it is shown to his satisfaction that the failure to make an advance payment or a sufficient advance payment was due to circumstances which were not or could not reasonably have been foreseen by the company at the time such payments were due, remit the whole or any part of the penalty provided for in this section.

(4) (a) If the advance payment of Income Tax payable by a company for the sixth, ninth and twelfth month of a tax year is less than the actual Income Tax liability as specified in section 91(1), the company is liable for a penalty equal to 40% of the company’s advance payment shortfall for the respective months.

(b) In this section, “advance payment shortfall” means, in relation to a company for a tax year, the difference between the advance tax payable based on the actual Income Tax liability of the company for the preceding tax year and the advance tax paid in the sixth, ninth and twelfth months.

REVIEW OF PENALTIES

16) Section 92 (3) allows the Commissioner to review a penalty in cases where advance payments were short paid due to unforeseen circumstances. Taxpayers seeking a review of penalties should write to the Commissioner and provide an explanation for any shortfall in advance tax payments.

Imposition of Insufficient Advance Payment Penalty (IAPP)

Rule:

$$\text{IAPP} = \text{Advance Tax Payable Shortfall} \quad \times \quad 40\% \\ \text{Per Installment on Due Date}$$

Appendix 1: Shortfall

Year ended 31st December, 2013
 2012 Tax Assessed: \$85,000
 2013 Advance tax payable: \$85,000

Example 1 – Shortfall in 1st Installment

Due Date	Advance Tax Payable	Amount Paid	Shortfall at Due Date	IAPP 40% Penalty on Short fall
1 st Installment: 30 th June, 2013	85,000 x 33.3% = \$28,305	Nil	\$28,305	\$28,305 x 40% = \$11,322
2 nd Installment: 30 th September, 2013	85,000 x 33.3% = \$28,305	\$28,305	Nil	Nil
3 rd Installment: 31 st December, 2013	85000 x 33.4% = \$28,390	\$28,390	Nil	Nil
Total	\$85,000	\$ 56,610	\$28,390	\$11,322

Example 2 - Shortfall in 2nd Installment

Due Date	Advance Tax Payable	Amount Paid	Shortfall at Due Date	IAPP 40% Penalty on Short fall
1 st Installment: 30 th June, 2013	85,000 x 33.3% = \$28,305	\$28,305	Nil	Nil
2 nd Installment: 30 th September, 2013	85,000 x 33.3% = \$28,305	Nil	\$28,305	\$28,305 x 40% = \$11,322
3 rd Installment: 31 st December, 2013	85000 x 33.4% = \$28,390	\$28,390	Nil	Nil
Total	\$85,000	\$ 56,610	\$28,390	\$11,322

Example 3 – Shortfall in 3rd Installment

Due Date	Advance Tax Payable	Amount Paid	Shortfall at Due Date	IAPP 40% Penalty on Short fall
1 st Installment: 30 th June, 2013	85,000 x 33.3% = \$28,305	\$28,305	Nil	Nil
2 nd Installment: 30 th September, 2013	85,000 x 33.3% = \$28,305	\$28,305	Nil	Nil
3 rd Installment: 31 st December, 2013	85000 x 33.4% = \$28,390	Nil	\$28,305	\$28,305 x 40% = \$11,322
Total	\$85,000	\$ 56,610	\$28,390	\$11,322

Example 4 – Shortfall in All Installments

Due Date	Advance Tax Payable	Amount Paid	Shortfall at Due Date	IAPP 40% Penalty on Short fall
1 st Installment: 30 th June, 2013	85,000 x 33.3% = \$28,305	\$10,000	\$18,305	\$18,305 x 40% = \$7,322
2 nd Installment: 30 th September, 2013	85,000 x 33.3% = \$28,305	\$15,000	\$13,305	\$13,305 x 40% =\$5,322
3 rd Installment: 31 st December, 2013	85000 x 33.4% = \$28,390	\$15,000	\$13,390	\$13,390 x 40% = \$5,356
Total	\$85,000	\$40,000	\$45,000	\$18,000

Appendix 2 Overpayments

Year ended 31st December, 2013
 2012 Tax Assessed: \$85,000
 2013 Advance tax payable: \$85,000

Example 1: Excess paid in 1st Installment

Due Date	Advance Tax Payable	Amount Paid	Shortfall at Due Date	IAPP 40% Penalty on Short fall
1 st Installment: 30 th June, 2013	85,000 x 33.3% = \$28,305	\$30,000	Nil	Nil
2 nd Installment: 30 th September, 2013	85,000 x 33.3% = \$28,305	\$25,000 + \$1,695 = \$26,695 <i>(\$1,1695 excess from 1st instalment)</i>	28,305 – 26,695 = 1,610	\$1,610 x 40% = \$644
3 rd Installment: 31 st December, 2013	85000 x 33.4% = \$28,390	\$29,000	Nil	Nil
Total	\$85,000	\$84,000	\$1,610	\$644

Example 2: Excess paid in 2nd Installment

Due Date	Advance Tax Payable	Amount Paid	Shortfall at Due Date	IAPP 40% Penalty on Short fall
1 st Installment: 30 th June, 2013	85,000 x 33.3% = \$28,305	\$20,000	\$28,305 – 20,000 = \$8,305	\$8,305 x 40% = \$3,322
2 nd Installment: 30 th September, 2013	85,000 x 33.3% = \$28,305	\$30,000	Nil	Nil
3 rd Installment: 31 st December, 2013	85000 x 33.4% = \$28,390	\$20,000 + \$1,695 = \$21,695 <i>(\$1,1695 excess from 2nd instalment)</i>	\$28,390- 21,695 = \$6,695	\$6,695 x 40% = \$2,678
Total	\$85,000	\$70,000	\$15,000	\$6,000

Example 3: No Payment in 1st installment, Excess Payment in 2nd Installment

Due Date	Advance Tax Payable	Amount Paid	Shortfall at Due Date	IAPP 40% Penalty on Short fall
1 st Installment: 30 th June, 2013	85,000 x 33.3% = \$28,305	Nil	\$28,305	\$28,305 x 40% = \$11,322
2 nd Installment: 30 th September, 2013	85,000 x 33.3% = \$28,305	\$85,000	Nil	Nil
3 rd Installment: 31 st December, 2013	85000 x 33.4% = \$28,390	\$56,695 – 28,390 = 28,305 <i>(\$56,695 excess from 2nd instalment)</i>	Nil	Nil
Total	\$85,000	\$85,000	\$28,305	\$11,322

Appendix 3

Example 1 New Taxpayer

No tax in previous year

Business Started in 1st January, 2013

Year Ended 31st December, 2013 No Advance Tax Payable in 2014.

No IAPP will be Applicable.

Example 2 Current taxpayer – No tax in previous year (e.g. loss)

No tax payable in 2012 (Previous Year)

Year Ended 31st December, 2013 No Advance Tax Payable in 2014.

No IAPP will be Applicable.

Example 3 Current Year's Tax Payable Less Than Previous Year's Tax

2012 (Previous Year's) Tax Payable \$85,000

2013 Advance Tax Payable \$85,000

2013 actual tax payable \$30000

Due Date	Advance Tax Payable	Amount Paid	Shortfall at Due Date	IAPP 40% Penalty on Short fall
1 st Installment: 30 th June, 2013	85,000 x 33.3% = \$28,305	\$10,000	(\$28,305 - \$10,000) = \$18,305	\$18,305 x 40% = \$7,322
2 nd Installment: 30 th September, 2013	85,000 x 33.3% = \$28,305	\$10,000	(\$28,305 - \$10,000) = \$18,305	\$18,305 x 40% = \$7,322
3 rd Installment: 31 st December, 2013	85000 x 33.4% = \$28,390	\$10,000	(\$28,390 - \$10,000) = \$18,390	\$18,390 x 40% = \$7,356
Total	\$85,000	\$30,000	\$55,000	\$22,000

There is no provision for taxpayers to request for reduction in advance tax payable based on estimated reduced income. Taxpayer can request for the review by writing it to commissioner.

End