INCOME TAX ACT 1974

Revised to 1st January 2000
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INCOME TAX

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1 §6 repealed by §3 Decree 30/1992 WEF 1st July 1992
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6 See Note 5
7 §101 repealed by §14 Decree 30/1992 WEF 1st July 1992
8 Cap. 215
CHAPTER 201
INCOME TAX

AN ACT TO RE-ENACT AND AMEND THE LAW RELATING TO INCOME TAX

[1 January 1974]

PART I – PRELIMINARY

Short title

1. This Act may be cited as the Income Tax Act.


Interpretation

2. In this Act, unless the context otherwise requires—

“agent” includes every person who in Fiji, for or on behalf of any person out of Fiji, holds or has the control, receipt or disposal of any money belonging to such person, and every person declared by the Commissioner to be an agent under this Act, and includes an authorised officer and a sub-agent;

“approved fund” means a fund declared by the Governor, prior to 1 January 1961, to be an approved fund, or a fund, scheme or plan approved by the Commissioner under the provisions of section 110;

“arms-length transaction” means a transaction where the following conditions do not apply:—

(a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both buyer and the seller are bodies of persons, and some other person has control over both of them; or

(b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole and main benefit which might have expected to accrue to the parties, or any of them, was the obtaining of an allowance or deduction in respect of capital expenditure.

For the purpose of this definition—

(i) “body of persons” includes a partnership;

(ii) “control” means, in the case of a body corporate, the power of a person to secure, by means of the holding of shares or the possession of voting power in, or in relation to, that or any other body corporate, or by virtue of any powers conferred by the Articles of Association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and, in the case of a partnership, the right to a share of more than one-half of the partnership assets or income;

“authorised officer” means the person appointed by a company under the provisions of section 41;

“basic tax”…
“Commissioner” means the Commissioner of Inland Revenue or any person authorised \(^2\) to act in his stead;

“company”\(^3\) includes all bodies or associations, corporate or unincorporate, and any company incorporated by statute or by any charter, and every unit trust;

“dealing in property” and “dealing in real and personal property” include—

(i) the acquisition (including a gift and transfer \textit{inter vivos} or by inheritance) and sale or disposition of—

(a) any land scheduled for development under the Town Planning Act\(^4\) either before or after acquisition where any subdivision takes place;

(b) any land where permission for development is granted after acquisition;

(ii) the purchase of any land scheduled for development at the date of acquisition which is sold within 3 years of acquisition; unless the taxpayer can establish that one of the prime purposes of the purchase was not to make a profit \([\text{on}]^5\) resale;

(iii) any transaction involving the sale or disposition \([\text{or}]^6\) transfer of shares of a company to the extent that the transaction is a scheme or undertaking or part of a scheme or undertaking entered into with the intention of making a profit and the company is \([\text{the owner of any land, or of shares, either directly or indirectly, in another company which is the owner of any land, to which paragraph (i) or (ii) applies;}\]^7\)

“dependent child” means any child, step-child or adopted child whose \([\text{own}]^8\) world total income (other than income from any scholarship) in the year in respect of which the assessment is made does not exceed \([\$1,000]^9\) and who—

(a) is under 18 years of age and is dependent on his parents for support;

(b) is over 18 and under 27 years of age and is receiving full-time instruction at any university, college, school or other educational establishment, or is serving under articles or indentures with a view to qualifying in a profession or trade and is dependent on his parents for support; or

(c) is over 18 years of age and is dependent on his parents for support on account of physical or mental incapacity;

“hardware”\(^10\) for the purpose of section 21(1)(t) means the components comprising a computer, but excludes visual display units, printers, scanners and other peripherals;

“income year” means, in respect of the income of any person, the year in which that income has been derived by him;

“know-how payment” means payment for any scientific, technical, commercial or industrial information, techniques, knowledge or assistance likely to assist in the carrying on of a business or in the manufacture of processing of goods or materials or in the working of a mine, oil well or other source of mineral deposits (including the searching for, discovery, or testing of deposits or the winning of access thereto) or in the carrying out of any agricultural, forestry or fishing operations;

“lease” includes a sub-lease and any licence, concession, permission, easement or other right granted to any person to use or over any land, and an agreement for such a transaction;
“minerals”\(^{11}\) has the meaning ascribed to it by the Mining Act\(^{12}\) and shall include natural gas and oil;

“mining”\(^{13}\) includes every method or process by which any mineral (including natural gas or oil) is won from the soil or any constituent thereof;

“mining company”\(^{14}\) includes a company engaged in winning natural gas or oil;

“non-resident” means a person who, or a company which, is not a resident;

“normal tax” means the tax authorised by section 7;

“owner of land” includes the owner of any interest in land;

“persons employed in Fiji” means all persons who receive, directly or indirectly, salary, wages, commissions, fees or other remuneration derived from sources within Fiji for personal service any part of which is performed in Fiji;

“public company”\(^{15}\), for the purposes of paragraph \((a)\) of subsection \((2)\) of section 8, means—

\( (a) \) any company all classes of whose shares are publicly quoted at any time within the preceding 12 months by a stock exchange in a list issued under its authority, provided the Commissioner is satisfied—

\( (i) \) that the stock exchange is a recognised and bona fide stock exchange;

\( (ii) \) that the memorandum and articles of association of the company contain no restriction on the right to acquire or transfer any of its shares such as are likely to preclude members of the general public from becoming shareholders in any class of the company’s shares; and

\( (iii) \) that the general public was throughout the income year in question beneficially interested, either directly as shareholders or indirectly as shareholders in any other company, in more than 40 per cent of every class of shares issued by the company;

\( (b) \) any other company, not being a private company as defined in the Companies Act\(^{16}\), in respect of which the Commissioner is satisfied—

\( (i) \) that the general public was, throughout the income year in question, beneficially interested, either directly as shareholders in the company or indirectly as shareholders in any other company, in more than 40 per cent of every class of shares issued by the company; and

\( (ii) \) that the business of the company is conducted and its profit are distributed in such a manner that no person enjoys or receives or is entitled to enjoy or receive, by reason of any shareholding, participation in the management or otherwise, any advantage which would not be enjoyed or received by such person if the company had been under the control of a board of directors acting in the best interest of all its shareholders and had been one which could have been recognised as a public company under paragraph \((a)\):

Provided that—

\( (a) \) the general public shall not be deemed to be beneficially interested in any shares if they are held—
(i) by any director or associate director of the company; or
(ii) by any company which is under the control of any such director or associate director; or
(iii) by any associated company of the company; or
(iv) as part of any fund the capital or income of which is applicable or applied wholly or mainly for the benefit of the employees or directors, or past employees or directors, of the company, or of any company referred to in paragraph (ii) or (iii), or their dependants; or
(v) by any relative of any director or associate director of the company, unless it is shown, to the satisfaction of the Commissioner, that such relative, if he is not the spouse or minor child of such director or associate director, has, at all times which the Commissioner considers relevant, exercised his rights as a shareholder in the company, or in any other company through which such relative is beneficially interested in the shares of the company, independently of such director or associate director; or
(vi) by any man or his wife or any minor child of any man or his wife, if 1 or more of such persons are directly or indirectly beneficially interested together in more than 10 per cent of any class of shares issued by the company; or
(vii) by a company resident in Fiji which is a controlled company as defined in section 12, or by a company not so resident which would be a controlled company if it were so resident, if such company is directly or indirectly beneficially interested in more than 10 per cent of any class of shares issued by the company;

(b) the general public shall be deemed to be beneficially interested in any shares if they are held—
(i) by any pension fund, provident fund, or any trust or institution which, in the opinion of the Commissioner, is of a public character; or
(ii) by any statutory body established by or under an Act of Parliament; or
(iii) by the Unit Trust of Fiji; or
(iv) by the Government of Fiji;

“redundancy payment” means a bona fide lump sum payment, other than a retiring allowance on the occasion of the termination of employment, where—
(a) in the case of an individual who is an employee and who is not a seasonal worker, the employment is terminated by the employer, the termination being attributable, wholly or mainly, to the fact that the position filled by that individual is, or will become, superfluous to the needs of the employer; or
(b) in the case of an individual who is an employee and a seasonal worker, that individual’s usual seasonal employment is made unavailable by the employer, the unavailability being attributable, wholly or mainly, to the fact that the individual’s position or usual position is, or will become, superfluous to the needs of the employer;

but does not include—
(c) any payment relating to a situation solely involving a seasonal lay-off; or
(d) any payment contingent on the completion of either a fixed-term engagement or an engagement to complete work specified in a contract; or
(e) any payment in lieu of notice terminating the employment of the taxpayer; or
(f) any payment which, if it had not been made upon termination of employment, would, in the opinion of the Commissioner, have been paid so as to constitute monetary remuneration of the employee; or
(g) any payment made by a company pursuant to its articles of association to any of its directors; or
(h) any payment which, in the opinion of the Commissioner, is excessively large in relation to the earnings and length of service of the employee;

“resident” means—

(a) a person, other than a company, who resides in Fiji, and includes a person—
   (i) whose domicile is in Fiji, unless the Commissioner is satisfied that his permanent place of abode is outside Fiji;
   (ii) who has actually been in Fiji, continuously or intermittently, during more than one-half of the income year, unless the Commissioner is satisfied that his usual place of abode is outside Fiji and that he does not intend to take up residence in Fiji;

(b) in the case of a company, a company which is incorporated in Fiji, or in the case of a company not incorporated in Fiji, a company which carries on business in Fiji and has either its management and control in Fiji or its voting power controlled by shareholders who are residents;

“scholarship” includes an exhibition, bursary, or other similar educational benefit;

“shareholder” includes any registered holder or beneficial owner of a unit in a unit trust;

“software” for the purposes of section 21(1)(t) includes—

(a) the copyright in software;
(b) the right to use the copyright in software;
(c) the right to use software; and
(d) a copy of a software program which has been purchased;

“tax” means any levy or tax charged under this Act and includes any rebate withdrawn under section 100A;

“taxpayer” means any person paying, liable to pay, or believed by the Commissioner to be liable to pay, any tax imposed by this Act;

“trading stock” includes—

(a) anything produced or manufactured and anything acquired, purchased or held for purposes of manufacture, sale or exchange;
(b) any livestock or produce held in connection with the occupation of land for the purposes of pastoral, agricultural or other farming operations;
(c) any property where the business of the person by whom it is sold or disposed of comprises dealing in property of that nature; and
(d) any property acquired for the purpose of sale or otherwise disposing of the ownership of it;
“trust deed”, “trustee”, “unit holder” and “unit trust” shall have the meanings ascribed to them by the Unit Trusts Act;

“withholding tax” means the tax authorised by sections 8, 9, 9A, 10 and 10A;

“world total income”, for the purpose only of the definition of “dependent child” in this section, of paragraph (b) of the proviso to subsection (3) of section 25, of paragraph (a) of the proviso to subsection (4) of section 25 and of paragraph (d) of the proviso to paragraph (ii) of subsection (2) of section 29, shall include all overseas income and any dividends, interest and other sum which would otherwise be included in arriving at total income for the purposes of this Act;

“year” means the calendar year or part of the year ended 31 December;

“year-2000-compliant”, in relation to a computer means that the performance and functionality of the computer are not affected by dates prior to, during or after the year 2000;

“year of assessment” means the year in respect of which tax is payable.

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1 Repealed by §2 Decree 30/1992 WEF 1st July 1992 – previously read: “ ‘basic tax’ means the tax authorised by section 6”

2 Words “by the Public Service Commission” repealed by Schedule 2 paragraph (a) Act 9/1998 WEF 1st January 1999

3 Substituted for “company includes all bodies or associations, corporate or unincorporate and any company incorporated by statute or any charter,” by §2(a) Act 23/1979 WEF 1st January 1978

4 Cap. 139

5 Substituted for “or” by §2(a) Act 10/1975 WEF 1st January 1975

6 Substituted for a comma by §2(b) Act 10/1975 WEF 1st January 1975

7 Substituted for “involved in the acquisition and sale or disposition of any land to which paragraphs (i) and (ii) above apply;” by §2(c) Act 10/1975 WEF 1st January 1975

8 Inserted by §2(d) Act 10/1975 WEF 1st January 1975

9 Inserted by §3 Act 3/1999 WEF 1st January 1999; “four hundred dollars” substituted for “two hundred dollars” by §2(a) Act 21/1982 WEF 1st January 1983

10 Inserted by §3(b) Act 3/1999 WEF 1st January 1999

11 Inserted by §2(b) Act 23/1979 WEF 1st January 1978

12 §2 Cap. 146 –

“minerals” includes the following minerals:

(a) “precious metals” which shall include gold, silver, platinum

13 Inserted by §2(b) Act 23/1979 WEF 1st January 1978

14 See Note 13

15 Inserted by §2(a) Act 21/1980 WEF 1st January 1980

16 Cap. 247

17 Inserted by §3 Act 2/1996 WEF 1st October 1995


19 Substituted for “central” by §2(c) Act 21/1982 WEF 1st January 1983

20 Inserted by §2(b) Act 23/1979 WEF 1st January 1978

21 Inserted by §3(c) Act 3/1999 WEF 1st January 1999

22 Substituted for “tax means any levy or tax chargeable under this Act;” by §2(b) Act 21/1980 WEF 1st January 1980

23 All 4 definitions inserted by §2(b) Act 23/1979 WEF 1st January 1978

24 §2 Cap. 228 –

INSERT “withholding tax means the tax authorised by sections 8, 9 and 10 of this Act;” by §2(d) Act 21/1982 WEF 1st January 1983


26 Inserted by §2(e) Act 10/1975 WEF 1st January 1975

27 §25(3) repealed by §10(2) Decree 30/1992 WEF 1st July 1992

28 §25(4) repealed by §10(2) Decree 30/1992 WEF 1st July 1992

29 §29 repealed by §13 Decree 30/1992 WEF 1st July 1992

30 Inserted by §3(d) Act 3/1999 WEF 1st January 1999
PART II – ADMINISTRATION

Commissioner of Inland Revenue and officers

3.—(1) There shall be a Commissioner of Inland Revenue who shall administer this Act and be responsible for the collection of tax under it and shall perform such other duties as the [Fiji Islands Revenue and Customs Authority]2 may assign to him.

(2) The person for the time being appointed as the Chief Executive Officer of the [Fiji Islands Revenue and Customs Authority]3 shall hold office as the Commissioner of Inland Revenue.

(3) The Commissioner may authorise any other officer or employee of the [Fiji Islands Revenue and Customs Authority]3 to exercise any of the powers conferred upon him by this Act except the power of delegation under this subsection.

1 Substituted by Schedule 2 paragraph (b) Act 9/1998 WEF 1st January 1999 – previously read:

(1) The Public Service Commission may appoint a person to be called the Commissioner of Inland Revenue, who shall administer this Act and be responsible for the collection of tax under this Act, and shall also perform such other duties as the Minister may assign to him.

(2) The Public Service Commission may appoint such persons, including a person to be called the Deputy Commissioner of Inland Revenue and persons to be called [Chief Assessor or] Principal Assessors of Inland Revenue, to be officers under the control of the Commissioner as the Minister may consider necessary for the purposes of this Act.

(3) Where, under this Act, any power is conferred on, or any duty is imposed on, the Commissioner, then, subject to any express direction by the Commissioner to the contrary, such power may be exercised by, or such duty may be performed by the Deputy Commissioner[ , or a Chief Assessor] or a Principal Assessor:

Provided that the powers conferred by section 96 shall be exercised only by the Commissioner.

(4) The Commissioner may, notwithstanding the provisions of subsection (3), authorise any officer in the service of the Inland Revenue Department to exercise any of the powers conferred upon him by this Act other than the powers conferred by section 96.

(5) The Commissioner shall have the administration of this Act and the control and management of the collections of the taxation levied thereby and of all matters incidental thereto and the officers and the [persons] employed in that service.


2 Reference to “Fiji Islands Revenue and Customs Authority” substituted for “Fiji Revenue and Customs Authority” by §4(1) Act 30/1999 WEF 1st January 2000 LN #/1999

3 See Note 2

4 See Note 2

Office of the Commissioner

3A.1 The office of the Commissioner shall be in Suva.

1 Section and heading inserted by §2 Act 3/1982 WEF 1st January 1982

Official secrecy

4.—(1) Every person required by the Commissioner to perform any special duty …1 or having any official duty in or being employed in the administration of this Act (hereafter in this section referred to as an “officer”) shall regard and deal with all documents, returns, assessments and information relating to the income or items of income of any person as secret and confidential and shall take an oath in the form set out in Form I in the First Schedule before performing any duty under this Act and such oath may be administered by a magistrate.

(2) Every officer or person employed in carrying out the provisions of this Act who—
(a) directly or indirectly asks for, or takes, in connection with any of his duties, any payment or reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to receive; or

(b) enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals, or connives at, any act or thing whereby the tax revenue is or may be defrauded, or which is contrary to the provisions of this Act or to the proper execution of his duty thereunder; or

(c) in contravention of the provisions of subsection (1) or of the terms of his declaration of secrecy, and without lawful excuse, reveals to any person any document or information which has come into his possession or to his knowledge in the course of his official duties, or permits any other person to have access to any document in the possession or custody of the Commissioner in his official capacity,

shall be guilty of an offence against this Act and shall be liable, on conviction, to a fine not exceeding $1,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

(3) No officer or person appointed under, or employed in carrying out the provisions of, this Act shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Act, or in order to institute a prosecution, or in the course of a prosecution, for any offence committed in relation to tax.

(4) Notwithstanding anything contained in this section the Commissioner may disclose to the Minister or members of the [Fiji Islands Revenue and Customs Authority] such information, records or documents as may be necessary for the purposes of this Act or the [Fiji Islands Revenue and Customs Authority Act] and the Minister or members, as the case may be, shall thereupon become subject to the provisions of this section.

(5) The Auditor-General, exercising the powers and performing the duties imposed upon him by the provisions of section 111, shall be deemed to be an officer employed in carrying out the provisions of this Act for the purposes of this section.

(6) Nothing in this section shall prohibit the Commissioner or any person authorised by him from communicating information to the Tax Agents’ Board constituted under Part VIIA.
5. All information and correspondence, and all payments of tax, under the provisions of this Act, shall be carried and delivered by the [Department of Posts and Telecommunications], free of postal or other charges, if the postal packet containing such information, correspondence and payments is addressed to the Commissioner of Inland Revenue or to the [Fiji Islands Revenue and Customs Authority].

1 Now exists as a statutory corporation, Post Fiji Limited

PART III – IMPOSITION OF TAX

Basic tax

6. … 1

1 Repealed by §3 Decree 30/1992 WEF 1st July 1992 – previously read:

(1) Notwithstanding the other provisions of this Act, there shall be assessed, levied and paid a tax, to be known as “basic tax”, at the rate of 2.5 cents in each complete dollar for each year of assessment—
   (a) on every dollar of total income derived during the year—
      (i) by every resident individual whose total income exceeds [$3,000];
      (ii) by every other person, other than a company;
   (b) on every dollar of chargeable income of a company, other than a non-resident shipping company.

(2) [(a) Subject to the other provisions of this subsection, where the total income of any person in employment (excluding the value of all emoluments not exceeding $100 received otherwise than in cash) is less than [$3,000] in any year or where the amount of basic tax applicable to the total income of any such person would reduce the balance of such total income (excluding the value of all emoluments not exceeding $100 received otherwise than in cash) to [$3,000] or less in any year, then that income shall be exempt from basic tax.]
   (b) For the purposes of this subsection, the words “emoluments” and “employment” shall have the meanings assigned thereto respectively in section 79.

(3) Notwithstanding the provisions of any other written law, basic tax shall be collected in the manner most convenient to the source of income and, where practicable, shall be deducted at source by the person making the payment.

(4) For the purposes of assessment of basic tax on a company, the Commissioner may make a composite assessment without separately accounting for basic tax.


Normal tax

7.—(1) Subject to the other provisions of this Act there shall be assessed, levied and paid a tax to be known as normal tax for each year of assessment on every dollar of chargeable income of—

(a) an individual whose total income, in the case of a resident, exceeds [$5,000], or any other person, other than a company, in respect of his chargeable income for the year of assessment [but a resident individual shall be exempt from normal tax to the extent that such normal tax, together with [basic tax], would reduce the balance of his total income to [$5,000] or less in any year]:
   [Provided that no resident individual whose total income is below [$5,000] shall be subject to assessment under the principal Act as from 1st July 1992.]
(b) a non-resident non-mutual insurance company, except to the extent that the income in respect of its life insurance business is deemed to be “mutual” in accordance
with the provisions of section 37, in respect of its chargeable income derived from Fiji during the year preceding the year of assessment;

(c) a non-resident mutual insurance company in respect of its life insurance business derived from Fiji during the year preceding the year of assessment;

(d) a non-resident shipping company in respect of its chargeable income derived from Fiji during the year preceding the year of assessment;

(e) any other company in respect of its chargeable income derived during the year preceding the year of assessment.

For the purposes of this section—

(i) the calendar year in which more than half of the fiscal year of any company falls shall be deemed to be the year preceding the year of assessment of such company and, for all the purposes of this Act, the profits for the fiscal year shall be regarded as the profits of that calendar year;

(ii) where a trade, business, profession or vocation is carried on by an individual either solely or in partnership, the income year in relation to such trade, business, profession or vocation shall be the calendar year in which more than half of the fiscal year of such trade, business, profession or vocation falls and, for all the purposes of this Act, the profits for the fiscal year shall be regarded as the profits of that calendar year;

(iii) the normal tax charged under this section … 7 is in addition to [basic tax] 8.

(f) … 9

(2) Any person may, with the leave of the Commissioner, adopt an accounting period being the 12 months ending on some date other than 31st day of December. His accounting period in each succeeding year shall end on the corresponding date of that year, unless with the leave of the Commissioner some other date is adopted.

(3) The rates of normal tax chargeable are set out in the Fourth Schedule.
7A. Where, in accordance with this Act, a person (not being a company) is liable, in respect of [the year of assessment commencing on January 1 1984], to pay both basic tax and normal tax, there shall be assessed, levied and paid a tax, to be known as “surcharge”, at the rate of 5 per cent of the aggregate of the basic tax and the normal tax levied against that person in respect of that year of assessment.

7B.—(1) Where a person, not being a company, is liable to taxation in the year of assessment ending 31st December 1992, that person shall be assessed to tax in accordance with the provisions of this Section.

(2) For the purposes of this Section, unless the context otherwise requires:
“Period A” means the period from 1st January 1992 to 30th June 1992;
“Period B” means the period from 1st July 1992 to 31st December 1992;
“Period A Income” means the income derived in or during period A;
“Period B Income” means the income derived in or during period B;
“Notional Annual Income” means the sum of period A income and period B income;
“Notional Period A Tax” means the tax assessed on notional annual income, applying the taxes, rates of tax, allowances and rebates under this Act applicable during period A;
“Notional Period B Tax” means the tax assessed on notional annual income, applying the taxes, rates of tax, allowances and rebates under this Act applicable during period B;
“Notional Annual Tax” means the sum of notional period A tax and notional period B tax;
“Total Tax” means the total tax due under this Act in respect of any income derived in or during the year of assessment ending 31st December 1992;
“Person” means all legal persons, other than a company.

(3) Where a person has period A income only, the total tax due will be deemed to be the notional period A tax.

(4) Where a person has period B income only, the total tax due will be deemed to be the notional period B tax.

(5) Where a person continuously derives income during the whole of period A and during the whole of period B, the total tax due is deemed to be one half of the notional annual tax.
(6) If a person does not derive income in any of the circumstances defined in subsections (3), (4), or (5), the total tax due will be calculated according to the formula:

\[
\left( \frac{NPAT}{I} + \frac{PAI}{NAI} \right) + \left( \frac{NPBT}{I} + \frac{PBI}{NAI} \right)
\]

where:
NPAT means Notional Period A Tax
NPBT means Notional Period B Tax
PAI means period A Income
PBI means period B Income
NAI means Notional National Income.


(1) Where, in accordance with this Act, a person (not being a company) is liable, in respect of the year of assessment commencing on 1st January 1992, to pay both basic tax and normal tax, the following method of assessment shall be used:

(a) Income derived in or during the period 1st January 1992 to 30th June 1992 shall be deemed to have been derived in or during period (A), and income derived in or during the period 1st July 1992 to 31st December 1992 shall be deemed to have been derived in or during period (B).

(b) Period (A) income and Period (B) income shall each be proportionately increased to a notional annual income by the use of the formula:

\[
\frac{D \times I}{365} = NAI
\]

Where
NAI = Notional Annual Income
I = Either Period A income or Period B income
D = Number of days in the period over which the income was derived.

(c) Assessment to tax, according to the taxes, rates and allowances applicable to each Period shall be made on the notional annual income of each Period. The tax due for each period will be calculated according to the formula:

\[
T = TA \times \frac{D}{365}
\]

Where
T = Tax due for Period A or Period B
TA = Tax assessed on the notional annual income, as hereinbefore provided
D = Number of days in the Period over which the income was derived.

(d) The total tax for the year of assessment shall be the aggregate of the tax due in respect of Period (A) and the tax due in respect of Period (B).

Non-resident dividend withholding tax

8.—(1) Notwithstanding anything to the contrary in the other provisions of this Act, there shall be paid a tax, to be known as “non-resident dividend withholding tax”, in respect of the payments specified in subsection (2) at the rate of [15]1 per cent of the gross amount payable.

(2) Such tax shall be payable in respect of—

(a) a dividend declared, paid or credited by a company incorporated in Fiji;

For the purpose of this paragraph—

“dividend” means any amount distributed by a company, whether carrying on business in Fiji or not, to its shareholders;

“amount distributed” shall be deemed to include—

\[
\left( \frac{NPAT}{I} + \frac{PAI}{NAI} \right) + \left( \frac{NPBT}{I} + \frac{PBI}{NAI} \right)
\]
(aa) subject to paragraph (ee), in relation to a company that is being wound up or liquidated, any profits distributed, whether in cash or otherwise, other than of a capital nature, earned before or during the winding up or liquidation;

(bb) in relation to a company that is not being wound up or liquidated, any profits distributed other than realized capital profits, whether in cash or otherwise and whether of a capital nature or not, including an amount equal to the value of any debentures or securities awarded to shareholders, but excluding the nominal value of any bonus shares issued to a shareholder, other than a resident company, to the extent to which such shares have been paid up by means of the company’s undistributed revenue profits ascertained in accordance with the provisions of this Act;

(cc) subject to paragraph (ee), in the event of the partial reduction of the capital of a company, which is not a public company, any cash or the value of any asset which is given to a shareholder in excess of the cash equivalent of the nominal value by which the shares of that shareholder are reduced;

(dd) subject to paragraph (ee), in the event of the reconstruction, re-organisation or amalgamation of a company, which is not a public company, any cash or the value of any asset which is given to a shareholder in excess of the nominal value of the shares held by him before the reconstruction, re-organisation or amalgamation;

(ee) in the event of the winding up or liquidation or the partial reduction of the capital or the reconstruction, re-organisation or amalgamation of a company, which is not a public company or a company to which paragraph (ff) applies, any cash or the value of any asset which is given to a shareholder up to the nominal value of any bonus shares awarded to him after 31 December 1979, to the extent to which such shares were paid up by means of—

(i) the company’s undistributed revenue profits; or

(ii) profit arising from the revaluation of the company’s assets (other than goodwill and any other right where the profit from the sale of such right falls within the meaning of total income) not acquired for the purpose of resale at a profit;

(ff) in the case of an investment company or a company whose business consists wholly or mainly in the provision of professional, technical or personal services, an amount equal to the nominal value of any bonus shares awarded to the shareholder;

(gg) any money advanced by a company, either directly or indirectly, to or for the benefit of any of its shareholders or relatives of shareholders if, in the opinion of the Commissioner, the making of the advance was not a bona fide investment by the company;

(hh) any sum deemed to have been distributed as dividends among the shareholders under the provisions of subsection (7) of section 12:
Provided that an amount distributed shall not be deemed to include—

(i) the nominal value of any bonus shares awarded to a shareholder, to the extent to which such shares have been paid up by means of the company’s share premium account;

(ii) the nominal value of any bonus shares (other than redeemable bonus shares) awarded to a shareholder, to the extent to which such shares have been paid up by means of profit arising from the revaluation of the company’s assets (other than goodwill [and any right where the profit from the sale of such right falls within the meaning of total income]) not acquired for the purpose of resale at a profit. For the purpose of this sub-paragraph, the expression “profit arising from the revaluation” shall—

(a) be deemed not to include any such profit or gain unless—

(i) the assets which are revalued by the company were held by it continuously for a period of not less than 7 years immediately preceding the date of revaluation; and

(ii) it is a bona fide revaluation made by a valuer acceptable to the Commissioner;

(b) not include revaluation of land on the whole of which there has been no development;

“development” means—

(a) substantial building operations on any land;

(b) re-building operations, material alterations or additions to or major structural repairs to any building or structure;

(c) subdivision of any land by dividing the same and the laying out of plots, roads, drains, sewers, parks, gardens, lawns, orchards or the like, and shall include any development of land used or proposed to be used for agricultural development.

For the purposes of—

(i) paragraphs (cc) and (dd), where any cash or the value of any asset is given to a shareholder, such distribution shall be deemed to be firstly in respect of the nominal value of any bonus shares; and

(ii) paragraph (ee), in the event of the winding up or liquidation of a company, there shall be excluded any cash or the value of any asset which is given to a shareholder, up to the nominal value of any bonus shares awarded to him, to the
extent to which such shares were paid up by means of the company’s profit arising from the revaluation of its assets (other than goodwill) not acquired for the purpose of wide at a profit;

(b)\(^5\) any payment made for the hire or rent of films and any sum paid for the use of such films whether by way of purchase or long term hire. For the purpose of this paragraph, “films” include—

(i) motion picture films; and

(ii) films or video tapes for use in connection with television;

(c) a know-how payment and any sum paid or credited for the management of or supervision in connection with the carrying on of a business, to the extent that such payment or credit does not constitute reimbursement of expenditure, that is—

(i) of a kind that is deductible under this Act; and

(ii) incurred in relation to the payment or credit by the person to whom the payment or credit is made:

Provided that, where payment or credit is made partly for any purpose other than those mentioned in sub-paragraphs (i) and (ii), the Commissioner may, for the purposes of this paragraph, determine to what extent the sum so paid or credited is for such other purpose;

(d) alimony and maintenance paid under \(^6\) an order of a court of competent jurisdiction, allowed as a deduction in arriving at total income, if the person in whose favour or to whom any such sums have been declared, paid or credited is—

(i) a non-resident; or

(ii) the holder, whether a resident or not, of any bearer scrip, who was either a shareholder at the date of declaration of the dividend or was entitled to the payment at the date on which it accrued due.

**Person liable for the tax**

(3) The person liable for the tax shall be the person to whom or in whose favour the above-mentioned sums accrue.

**Recovery of tax**

(4) Notwithstanding the provisions of subsection (3), the tax shall be payable and recoverable from—

(a) in the case of a dividend referred to in paragraph (a) of subsection (2) distributable to any non-resident, to any person whose address appearing in the share register of the company is outside Fiji or to any holder of any bearer scrip, the company declaring or paying the dividend;

(b) in the case of a dividend referred to in paragraph (a) of subsection (2) received by an agent in Fiji on behalf of any person, the agent receiving the dividend;

(c) in the case of any other sum referred to in subsection (2), the person by whom such sum is paid or credited.
For the purposes of this subsection—

(i) a person shall, in the case of a dividend referred to in paragraph (a) of subsection (2), be deemed to be the agent of the shareholder referred to and to have received a dividend on behalf of the shareholder if that person’s address appears in the share register of the company as the registered address of the shareholder and the dividend warrant or cheque in payment of the dividend distributable to the shareholder is delivered at that address:

Provided that any person so deemed to be the agent of a shareholder shall, as regards such dividend, have and exercise all the powers, duties and responsibilities conferred or imposed by this Act on an agent of a taxpayer absent from Fiji;

(ii) in the case of a dividend not payable in money, a company shall not pay it until an amount equal to the tax that would have been paid if it had been payable in money has been paid to the Commissioner.

Right of reimbursement

(5) Any tax payable under the provisions of subsection (4) by any company, person or agent, otherwise than by deduction, may, notwithstanding any agreement to the contrary, be recovered by such company, person or agent, as the case may be, from the shareholder or other person entitled to the payment concerned.

Tax not payable and abatements

(6) The tax shall not be payable in respect of—

(a) a dividend or distribution by a statutory corporation;

(b) any sum payable to a person referred to in paragraph (5) of section 17;

(c) any sum, where the Minister is satisfied that such non-payment is expedient for the economic development of Fiji. In any such case, he shall, by notice to the Commissioner, direct that any tax otherwise payable under the provisions of this section shall either be waived or be at such reduced rate as he may specify.

Determination of tax if company operates both inside and outside Fiji

(7) If any dividend or sum specified in paragraphs (a) and (b) of subsection (2) has been received from a company which derives income from sources both within and outside Fiji, the tax payable thereon shall be calculated upon an amount which bears to such dividend or sum the same ratio as the net profits of the company derived from sources within Fiji including dividends from a resident company bears to its net profits derived from all sources, including dividends from a resident company, as last determined by the Commissioner for the purposes of this Act or, in any case where there has been no previous determination by the Commissioner, as estimated by the Commissioner according to such information as is then available to him.

Payment

(8) The person who, in accordance with the provisions of subsection (4), is required to pay the tax shall remit the same to the Commissioner within 30 days, or such other period as the Commissioner may specify, of the declaration, payment or crediting of the sum specified in subsection (2).

1 Figure “15” substituted for “30” by §3 Act 10/1997 WEF 1st January 1997; “30” substituted for “15” by §4 Decree 10/1990 WEF 1st January 1990
Definition of “amount distributed” substituted by §3 Act 21/1980 WEF 1st January 1980 – previously read:
“amount distributed” shall be deemed to include—

(aa) in relation to a company that is being wound up or liquidated, any profits distributed, whether in cash or otherwise, other than of a capital nature earned before or during the winding up or liquidation;

(bb) in relation to a company that is not being wound up or liquidated, any profits distributed other than realised capital profits whether in cash or otherwise and whether of a capital nature or not, including an amount equal to the nominal value of any bonus shares, debentures or securities awarded to the shareholders;

(cc) in the event of the partial reduction of the capital of a company, any cash or the value of any asset which is given to the shareholder in excess of the cash equivalent of the nominal value by which the shares of that shareholder are reduced;

(dd) in the event of the reconstruction, re-organisation or amalgamation of a company, which is not a public company, any cash or other value of any asset which is given to a shareholder in excess of the nominal value of the shares held by him before the reconstruction, re-organisation or amalgamation;

(ee) any money advanced by a company either directly or indirectly to or for the benefit of any of its shareholders or relatives of shareholders if, in the opinion of the Commissioner, the making of the advance was not a bona fide investment by the company;

(ff) any sum deemed to have been distributed as dividends among the shareholders under the provisions of subsection (7) of section 12, but shall not include—

(i) the nominal value of any bonus shares awarded to a shareholder, to the extent to which such shares have been paid up by means of the company's share premium account;

(ii) the nominal value of any bonus shares (other than redeemable bonus shares) awarded to a shareholder, to the extent to which such shares have been paid up by means of profit arising from the revaluation of the company's assets (other than goodwill and any right where the profit from the sale of such right falls within the meaning of total income) not acquired for the purpose of resale at a profit. For the purpose of this sub-paragraph, the expression “profit arising from the revaluation” shall—

(a) be deemed not to include any such profit or gain unless—

(i) the assets which are revalued by the company were held by it continuously for a period of not less than 7 years immediately preceding the date of revaluation; and

(ii) it is a bona fide revaluation made by a valuer acceptable to the Commissioner;

(b) not include revaluation of land on the whole of which there has been no development;

“development” means—

(a) substantial building operations on any land;

(b) re-building operations, material alterations or additions to or major structural repairs to any building or structure;

(c) subdivision of any land by dividing the same and the laying out of plots, roads, drains, sewers, parks, gardens, lawns, orchards or the like, and shall include any development of land used or proposed to be used for agricultural development.

Subparagraph (ii) substituted by §3(a) Act 21/1982 WEF 1st January 1983

Inserted by §2(a) Act 12/1982 WEF 1st January 1982

Substituted by §3(a) Act 21/1980 WEF 1st January 1980 and by §3(b) Act 21/1982 WEF 1st January 1983 – previously read:

“(b) royalties or other like payments;”

Words “any enforceable legal agreement or” deleted by §2(b) Act 12/1982 WEF 1st January 1982

9.—(1) Notwithstanding anything to the contrary in the other provisions of this Act, there shall be paid a tax, to be known as “[non-resident] interest withholding tax”, [at the prescribed rate, in respect of] any interest which accrued after 31 December 1973 to or in favour of—

(i) any non-resident, other than a company;

(ii) the estate of a deceased person who was, at the date of his death, a non-resident; or

(iii) a company not resident in Fiji,

if the debtor in respect of any such interest is a resident or carries on business in Fiji.
[(1A) For the purposes of subsection (1), the prescribed rate is 10 percent.]

**Application of provisions**

(2) (a) Where the debtor in respect of any interest referred to in subsection (1) is a company, such company shall, for the purposes of this section, be deemed to be resident in Fiji if it is managed and controlled in Fiji.

(b) Where the payer of any such interest is the estate of a deceased person, such estate shall, for the purposes of this section, be deemed to be a resident or carrying on business in Fiji if the deceased was, at the date of his death, a resident or carrying on business in Fiji.

**Cases where tax not payable**

(3) The tax shall not be payable in respect of—

(a) interest accruing from the Government any local authority or statutory corporation;

(b) interest on any amount borrowed by the debtor and paid to him outside Fiji for the sole purpose of carrying on any trade outside Fiji and not intended for use in Fiji;

(c) interest which is, or under the terms of the loan is required to be, paid in Fiji on money lent in Fiji by any person who has a permanent place of business in Fiji;

(d) interest accruing from the payer to any person during any calendar year which, together with any other interest accruing from him to such person during such period, does not exceed $20;

(e) interest on any bill of exchange or any promissory note to the extent that such interest is payable [to the supplier] in respect of the purchase price of goods imported into Fiji [and acquired for the purpose of resale at a profit], if such bill or note is issued through a bank in possession of a valid licence granted under the provisions of the Banking Act and such bank has certified on such bill or note that a bill of lading or other document covering the importation of such goods has been exhibited to it;

(f) interest accruing to a person referred to in paragraph (5) of section 17;

(g) interest in respect of a loan made, or in respect of a specific sum agreed to be advanced under an agreement signed, on or before 30 November 1973, from a source outside Fiji;

(h) any interest, where the Minister is satisfied that such non-payment is expedient for the economic development of Fiji. In any such case, he shall, by notice to the Commissioner, direct that any tax otherwise payable under the provisions of this section shall either be waived or be at such reduced rate as he may specify;

[(i) any interest which is exempt from [basic tax] and normal tax under item (44) of section 17.]

**Persons liable for tax**

(4) The person liable for the tax shall be the person, estate or company to whom or in whose favour the interest accrues.
Deduction of tax

(5) Notwithstanding the provisions of subsection (4), either the debtor in respect of any interest referred to in subsection (1) or any person who receives the same on behalf of or in trust for the person to whom it accrues shall, on behalf of the person, estate or company liable for the tax, deduct and remit to the Commissioner a sum equal to the amount of the tax payable in respect of the interest within 14 days or such other period as the Commissioner may specify, of the accrual of the interest:

Provided that, if the Commissioner is satisfied in any case that the tax due under the provisions of this section has been or will be paid by any person, he may direct that any other person, estate or company required to deduct and remit the same under the provisions of this subsection shall be relieved from any further liability in respect of such tax.

(6) Any tax paid under the provisions of subsection (5) by any person may, notwithstanding any agreement to the contrary, be deductible or withheld from the interest which is liable to be paid and recovered by the person making the payment from the person, estate or company to whom or in whose favour the interest accrued or be retained out of any money that may be in his possession, or may come to him, as the agent of such person, estate or company, and no action shall lie against the person making any payment or deduction under the provisions of this section.

(7) For the purposes of this section, interest includes discount.

Resident interest withholding tax

9A.—(1) Notwithstanding any other provisions of this Act there shall be paid a tax, to be known as “resident interest withholding tax” in respect of any interest which accrues to or in favour of a resident if the debtor in respect of any such interest is a depositor.

(2) Resident interest withholding tax shall be paid at the rate of 35%.

(3) Resident interest withholding tax shall not be payable where—

(a) the depositor in whose favour the interest accrues has provided the depositor paying the interest with a tax identification number in accordance with subsection (5); or,
(b) the depositor in whose favour the interest accrues has obtained a valid certificate of exemption in accordance with subsections (10) and (11) and furnished the said certificate to the depositor paying the interest; or,

(c) the depositor in whose favour the interest accrues is a depositor; …

(d) the interest which accrues to the depositor, in respect of each account held by the depositor, does not exceed $120 if the interest is paid or credited annually;

(e) the interest which accrues to the depositor does not exceed $P if the interest is paid credited in respect of a period [less] than one year, where—

\[ P = 120 \times \frac{n}{365} \]

and \( n \) = number of days in the period.

(4) The person liable for resident interest withholding tax shall be the depositor to whom or in whose favour the interest accrues.

(5) Any depositor who elects to provide the depositor with a tax identification number shall do so by providing, to the satisfaction of the depositor, documentary evidence of the depositor’s identity and tax identification number.

(6) Subject to subsection (7), resident interest withholding tax shall be payable in respect of any interest which accrues to or in favour of more than one person unless [at least 2 of] such persons entitled to such interest have provided their tax identification numbers in accordance with subsection (5).

(7) Notwithstanding subsection (6), where interest accrues to or in favour of a husband and wife jointly, it shall be sufficient compliance with subsection (3)(a) if the tax identification number of the husband only is provided in accordance with subsection (5).

(8) Where interest accrues to or in favour of a dependent child or legally incapacitated person it shall be sufficient compliance with subsection (3)(a) if the tax identification number of that child’s or person’s parent, guardian or other legal representative is provided in accordance with subsection (5).

(9) Where the Commissioner determines that a tax identification number provided to a depositor is incorrect he shall notify the depositor in writing of that fact and the depositor shall be required, within 10 days from the date of the Commissioner’s notice, to deduct tax in accordance with subsection (12) from interest thereafter accruing to the depositor in question.

(10) Any person the whole of whose income is otherwise exempt from [tax] under the provisions of this or any other Act may apply in writing to the Commissioner for a Certificate of Exemption from resident interest withholding tax.

(11) Upon being satisfied that any person is a person to whom subsection (10) applies, the Commissioner may grant a Certificate of Exemption from resident interest withholding tax in such form as he may determine.

(12) Notwithstanding subsection (4), every depositor when paying or crediting interest shall deduct a sum equal to the amount of resident interest withholding tax applicable thereto and remit such amount to the Commissioner within 15 days after the end of the month in which
the interest is paid or credited, together with a report, in such form as may be approved by the Commissioner, containing details of tax identification numbers provided, names [and addresses]⁸ of all depositors to whom interest has accrued, amounts of interest and tax deducted therefrom.

(13) Any tax paid under subsection (12) by any depositor may, notwithstanding any agreement to the contrary, be deducted or withheld from interest which is liable to be paid or credited and recovered by the depositor from the person to whom or in whose favour the interest accrued and no action shall lie against a depositor making any deduction under this section.

(14) Every depositor shall furnish to the Commissioner in such form as he may prescribe an annual report as required by section 54 containing details of—

(a) all tax identification numbers provided to the depositor;

(b) interest paid and amounts of tax deducted therefrom; and

(c) the names [and addresses]⁹ of all depositors to whom interest has accrued.

(15)¹⁰ Every depositor shall, not less than once a year and in writing, notify a depositor of the amount of interest which is paid or credited to each account held by the depositor.

(15A)¹¹ Every depositor shall, not later than 31st January immediately following a year of income in which it deducted tax under subsection (12), issue a notice in writing, in a form approved by the Commissioner, to the person to whom or in whose favour the interest accrued in respect of each account held by the depositor, stating—

(a) the name and address of the depositor;

(b) the total amount of interest paid or credited in that year; and

(c) the total amount of tax deducted under this section.

(16) For the purposes of this section—

“depositor” means any person depositing money with a depositor on terms under which it will be repaid with or without interest and either on demand or after a fixed period or after notice;

“financial institution” means a financial institution licensed under the Banking Act 1995;

“interest” means any interest paid or credited to the account of any depositor whether actually paid, credited, reinvested, accumulated, or dealt with on behalf of the depositor;

“tax identification number” means the tax file number provided to a taxpayer by the Commissioner for the purposes of this Act.

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¹ Section and heading inserted by §5 Act 10/1998 WEF 1st January 1999
² Word “or” deleted by §2(a)(i) Act 33/1998 WEF 1st January 1999
³ Paragraph (d) inserted by §2(a)(ii) Act 33/1998 WEF 1st January 1999
⁴ Paragraph (e) inserted by §2(a)(ii) Act 33/1998 WEF 1st January 1999
⁵ Substituted for “other” by §4 Act 3/1999 WEF 1st January 1999
⁶ Substituted for “all” by §2(b) Act 33/1998 WEF 1st January 1999
⁷ Substituted for “a” by §2(c) Act 33/1998 WEF 1st January 1999
Dividend tax

10.—(1) Notwithstanding anything to the contrary in the other provisions of this Act, there shall be paid tax, to be known as "dividend tax", equal to 5 per cent of any dividend (including an interim dividend) paid or credited by a company incorporated in Fiji, if the shareholder or other person in whose favour the dividend has been paid or credited is a resident:

Provided that where any dividend which is paid or credited in favour of a resident taxpayer by a company holding an operating licence granted under the provisions of the Tax Free Zones Decree 1991\(^1\), the dividend tax shall be equal to 15 per cent of any such dividend paid or credited.\(^2\)

(2) For the purpose of subsection (1), "dividend" shall have the same meaning as in paragraph (a) of subsection (2) of section 8.

(3) The tax shall not be payable in respect of—

(a) a dividend or distribution by a statutory corporation;

(b) any sum accruing to any person referred to in paragraph (5) of section 17;

(c) a dividend paid to a company incorporated in Fiji;

(d)\(^3\) a dividend paid or credited in favour of a resident individual in respect of shares of a company listed at the Suva Stock Exchange;

(e)\(^4\) a dividend paid to or credited in favour of a resident individual from the Unit Trust of Fiji;

(f)\(^5\) the nominal value of any bonus shares awarded to a shareholder to the extent to which such shares have been paid up by means of profit arising from the reconstruction or reorganisation of the company’s equity structure undertaken solely for the purpose of listing on the Suva Stock Exchange provided that—

(i) the said company is listed on the Suva Stock Exchange within 12 months of any such reconstruction or reorganisation or such longer period as the Commissioner may determine; and

(ii) the said company remains listed on the Suva Stock Exchange for a period of not less than three years.

Person liable for the tax

(4) The person liable for the tax shall be the person to whom or in whose favour the dividend accrues.

Recovery of tax
(5) Notwithstanding the provisions of subsection (4), the tax shall be recoverable from the company paying or crediting the dividend.

**Right of reimbursement**

(6) Any tax payable under the provisions of subsection (5) by any company, person or agent, otherwise than by deduction, may, notwithstanding any agreement to the contrary, be recovered by such company, person or agent, as the case may be, from the person to whom or in whose favour the dividend accrues.

**Payment**

(7) The person who, in accordance with the provisions of subsection (5), is required to pay the tax shall remit the same to the Commissioner within 30 days, or such other period as the Commissioner may specify, of the payment or crediting of the dividend.

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1 Decree 57/1991
2 Inserted by §5(1) Decree 30/1992 WEF 1st January 1992
3 Paragraph (d) inserted by §4 Act 18/1995 WEF 1st January 1995
4 Paragraph (e) inserted by §5 Act 10/1997 WEF 1st January 1997
5 Paragraph (f) inserted by §5 Act 10/1997 WEF 1st January 1997

**Royalty withholding tax**

10A.—(1) Notwithstanding section 11, there shall be paid a tax, to be known as a “royalty withholding tax”, equal to [25] per cent of any royalty or other like payment dependent upon production from, or the use of, any personal property or any mine or quarry, or as consideration for the extraction, removal of other exploitation of, or the right to extract, remove or otherwise exploit, standing timber or any natural resource, whether or not such royalty or other like payment is an instalment of the purchase price of any property, paid or credited by any person who is a resident or carries on business in Fiji, if the person in whose favour or to whom any such royalty or other payment has been made or credited is a non-resident.

(2) The person liable for the tax shall be the person to or in favour the royalty or other payment accrues.

(3) Notwithstanding subsection (2), the tax shall be payable and recoverable from the person or agent by whom such royalty or other payment is made or credited.

(4) Any amount payable under subsection (3) by any person or agent, otherwise than by deduction, may, notwithstanding any agreement to the contrary, be recovered by such person or agent from the person entitled to the royalty or other payment.

(5) The person or agent who, under the provisions of subsection (3), is required to pay the tax shall remit the same to the Commissioner within 30 days, or such other period as the Commissioner may specify, of the date upon which the royalty or other payment is or credited.

(6) In any case where the Minister is satisfied that non-payment of the tax, or payment of the tax at a reduced rate, would be expedient for the economic development of Fiji, he may, by notice in writing to the Commissioner, direct that any tax otherwise payable under this section either be waived or be paid at such reduced rate as the Minister may specify in the notice.
PART IV

Division 1 – Amounts to be Included in Arriving at Total Income

Definition of total income

11. For the purpose of this Act, “total income” means the aggregate of all sources of income including the annual net profit or gain or gratuity, whether ascertained and capable of computation as being wages, salary or other fixed amount, or unascertained as being fees or emoluments or as being profits from a trade or commercial or financial or other business or calling or otherwise howsoever, directly or indirectly accrued to or derived by a person from any office or employment or from any profession or calling or from any trade, manufacture or business or otherwise howsoever, as the case may be, including the estimated annual value of any quarters or board or residence or of any other allowance or benefit provided by his employer or granted in respect of employment whether in money or otherwise, and shall include the interest, dividends or profits directly or indirectly accrued or derived from money at interest upon any security or without security or from stock or from any other investment, and whether such gains or profits are divided or distributed or not, and also the annual profit or gain from any other source including the income from, but not the value of, property acquired by gift, bequest, devise or descent, and including the income from, but not the proceeds of, life insurance policies paid up upon the death of the person insured, or payments made or credited to the insured on life insurance, endowment or annuity contracts upon the maturity of the term mentioned in the contract:

Provided that, without in any way affecting the generality of this section, total income, for the purpose of this Act, shall include –

(a) any profit or gain accrued or derived from the sale or other disposition of any real or personal property or any interest therein, if the business of the taxpayer comprises dealing in such property, or if the property was acquired for the purpose of selling or otherwise disposing of the ownership of it, and any profit or gain derived from the carrying on or carrying out of any undertaking or scheme entered into or devised for the purpose of making a profit; but nevertheless, the profit or gain derived from a transaction of purchase and sale which does not form part of a series of transactions and which is not in itself in the nature of trade or business shall be excluded;

(b) any rent, fine, premium or like consideration (including a payment for or in respect of the goodwill of any business or the benefit of any statutory licence or privilege) derived by the owner of land from the grant of any lease, licence, concession, permission, easement or any other right granted to any person to use or over any land, or from the grant of any right of taking the profits thereof:

Provided that, where any such sum is derived by way of anticipation, the Commissioner may, in his discretion, apportion that income between the income year and any number of subsequent years, not exceeding 5, and the part so apportioned to each of those years shall be deemed to have been derived in that year and shall be chargeable with tax accordingly;
(c) remuneration becoming due and payable in respect of or in relation to services rendered by any person during any year in any office or employment, and such remuneration shall be total income of that person for that year but shall not include the amount of inducement allowance, education allowance or the proportion of the gratuity payable to any designated officer by the Government of the United Kingdom under the provisions of the Overseas Service (Fiji) Agreement, 1961, as amended from time to time:

Provided that, where any remuneration is received after the end of a particular year, the Commissioner may reopen such assessments as may be necessary to comply with this paragraph without the restriction as to time imposed by subsection (2) of section 59, but otherwise the provisions of that subsection shall apply to such reassessments;

(d) any royalty, profit or gain derived from the extraction, removal or sale of minerals, gravel or timber reduced by an amount equal to the cost of such minerals, gravel or timber. Such royalty, profit or gain shall be deemed to include –

(i) any royalty or other like payment dependent upon production from or the use of any real or personal property, whether or not such royalty or other payment is an instalment of the purchase price of any property;

(ii) any profit or gain derived from the sale of any rights over, or rights, to work, minerals or to extract gravel or timber;

(iii) any profit or gain derived from the sale of any option, survey or geological report or anything appertaining thereto representing valuable consideration, whether by the owner of the land from which it is obtained or by any other person;

Provided that the Minister, if satisfied that it is expedient for the economic development of Fiji, may, by notice to the Commissioner, direct that the whole or any part of any profits or gains derived from the sale of any minerals, gravel or timber shall be excluded from the total income of any taxpayer for the purposes of this Act.

For the purpose of this paragraph—

(a) “minerals” shall have the same meaning as in the Mining Act, and shall be deemed to include natural gas, oil, clay, gravel, sand, stone or other common mineral substances;

(b) [“sale” shall be deemed to include an assignment or a disposition by way of a licence or easement, or the grant of any right or taking of any profits or produce from land, or the sale of shares of a company whose major asset comprises a mining lease or tenement or the like;]²

(c) “timber” shall be deemed to include standing timber;

Non-resident

(e) in the case of a person residing or having his head office or principal place of business outside Fiji, but carrying on business in Fiji, either directly or through or in the name of any other person, the net profit or gain arising from the business of such person in Fiji:
Provided that any person normally residing outside Fiji who engages in the sale or other disposition either directly or by the sale of options to purchase or by any other means whatsoever of any land in Fiji or any interest or any such land shall be deemed to be carrying on business in Fiji, and any profit or gain derived from the carrying on or carrying out of any undertaking or scheme connected with the disposition either directly or indirectly of any land in Fiji or any estate or interest in any such land, including schemes involving the interposition of a company, entered into or devised for the purpose of making a profit shall be deemed to be total income for the purpose of this Act;

**Dividends**

(f) a dividend paid or credited year. For the purpose of this paragraph, “dividend” shall, if received from a resident company, have the same meaning as in paragraph (a) of subsection (2) of section 8;

(g) any amount received by a trustee of the estate of a deceased person, which would have been total income in the hands of such deceased person if it had been received by him during his lifetime;

(h) subject to paragraph (37) of section 17, any sum received or receivable in respect of the sale of any bonus shares by a shareholder to whom such shares were awarded after 31 December 1979, by a company which is not defined as a public company for the purposes of paragraph (a) of subsection (2) of section 8 [and is not also a company all classes of the shares of which are publicly quoted at any time within the preceding twelve months by a stock exchange established and operating in Fiji in a list issued under its authority], to the extent to which such shares were paid up by means of the company’s undistributed revenue profits, up to the nominal value of such bonus shares;

(i) any income received or accrued by way of annuity or pension, including voluntary pension;

(j) any amount, including any voluntary award, received or accrued, whether contractual or not, in respect of the relinquishment, termination, repudiation, loss, cancellation or variation of any office, employment or service, or of the right or claim to be appointed to any office, employment or service, otherwise than a sum to which paragraph (o) applies:

Provided that any amount received [other than a redundancy payment] by or accrued to an employee or the holder of any office by way of bonus, gratuity or compensation upon and because of the termination of his services (less so much thereof as is exempt from [basic tax] and normal tax under the provisions of paragraph (13) of section 17) shall be deemed to have been received or accrued in 3 successive equal annual instalments over the last year and the 2 preceding years of service, if—

(i) the termination of the services of such employee or officeholder is due to superannuation, ill-health or other infirmity; or

(ii) the Commissioner is satisfied that the circumstances of the case warrant this concession;

(k) the amount of any balancing charge required to be made under instructions given by the Minister in respect of allowances for depreciation and capital improvement or in respect of deductions allowed under section 21(1)(c) or section 23;
where a person acquired an interest in land after 31 December 1960 and—

(a) he has been allowed a deduction in arriving at his total income for any year in respect of capital improvements to ... land [used for agricultural or pastoral purposes]; or

(b) he has received assistance by way of subsidy payment towards the cost of planting, replanting, maintenance or extension of a coconut plantation,

the amount by which the consideration for the sale or disposal of the interest in land and improvements thereto exceeds the aggregate amount consisting of the original purchase price and any expenditure on improvements for which no deduction has been allowed in calculating his total income shall be deemed to be total income derived by the taxpayer in the year in which the property is sold or disposed of, to the extent of the total of such deductions allowed and subsidies received since the acquisition of the interest in the land. The Commissioner may, in his discretion, make all necessary apportionments, including apportionment or consideration for sale or disposal, of deductions in respect of capital improvements, of subsidy payments of the original purchase price of land, and of expenditure on improvements for which no deduction has been allowed:

Provided that the interest in land, together with improvements thereon, is sold or otherwise disposed of for value by the taxpayer within 10 years from the date of his acquisition of that interest[,...] the taxpayer may elect that the amount which would otherwise be included in total income for the year of sale or disposal should be apportioned over the period of ownership or over a period of 5 years, that is to say, the year of sale or disposal and the immediately preceding 4 years whichever is the less;

(m) a bad debt recovered which has previously been written off. Such sum shall be included in the total income of the year of recovery;

(n) alimony and maintenance due and paid under ... an order of a court of competent jurisdiction;

(o) any lump sum or any refund of contributions received under any approved superannuation or retirement benefit scheme, including any contributions made [to the Fiji National Provident Fund in excess of the minimum contributions other than on retirement or where contributions have been made for at least 10 years], but shall not include the commuted portion of any pension paid under any such scheme or under any written law granting pensions in respect of service with the Government of Fiji. Such sum or refund shall be deemed to be income of the recipient in the year in which the lump sum or refund is received:

Provided that the total tax due thereon shall not exceed the sum of—

(i) the additional tax which would have been due if the contributions by the employee to the scheme which are included in the lump sum or refund had not been allowed as a deduction in arriving at chargeable income; and

(ii) the tax due on any refunded contributions made by the employer as if such sums comprised additional income for the years in which the amounts were contributed;

Income from the estate of a deceased person, trust or settlement
(p) any income from the estate of a deceased person, a trust or a settlement, accruing to or derived by a beneficiary, including such income which is deemed to be that of the beneficiary under section 14;

(q) any sum disallowed by the Commissioner under the provisions of section 20 which has been deemed to be income of the person thereinmentioned;

(r) any interest or discount;

(s) any royalty or other like payment dependent upon production from, or the use of, any real or personal property, whether or not such royalty or other payment is an instalment of the purchase price of any property;

(t) in the case of any person to whom, in accordance with the terms of any agreement relating to the grant, licence, concession or permission in favour of any other person of the right to use or occupy, or over any land or buildings, or by virtue of the cession to him of any such rights, there has accrued in any year or period the right to have improvements effected on the land or to the buildings—

(i) the amount stipulated in the agreement as the value of the improvements or as the amount to be expended on the improvements; or

(ii) if neither amount is so stipulated, an amount representing in the opinion of the Commissioner the fair and reasonable value of the improvement;

(u) any know-how payment and any sum paid or credited for the management of or supervision in connection with the carrying on of a business, to the extent that such payment or credit does not constitute reimbursement of expenditure that is—

(i) of a kind that is deductible under this Act; and

(ii) incurred in relation to the payment or credit by the person to whom the payment or credit is made:

Provided that, where the payment or credit is made partly for any purpose other than those mentioned in sub-paragraphs (i) and (ii), the Commissioner may, for the purposes of this paragraph, determine to what extent the sum so paid or credited is for such other purposes;

(v) any sum and benefit in kind deemed to have been received under the provisions of this Act;

(w) any sum previously allowed as a deduction under paragraph (m) of section 21 which is subsequently withdrawn and distributed to the members of any co-operative society registered under the Co-operative Societies Act;

(x) any amount of [maritime] vessels investment allowance that, by virtue of paragraph 6 of the Eighth Schedule, is to be taken to be an amount to which this paragraph applies;

(y) any amount of supportive projects to tourist industry investment allowance that, by virtue of paragraph 6 of the Ninth Schedule, is to be taken to be an amount to which this paragraph applies;

(z) the value of any benefit or allowance, as estimated by the Commissioner having regard to the cost incurred by the employer in providing such benefit and-the market value of such benefit as ascertained by the Commissioner, granted in respect of or arising from employment, received either directly or indirectly in cash or otherwise and
whether for the benefit of the person in employment, his wife, dependent children or other dependent relatives, including—

(i) quarters, board, residence or other housing provided by the employer;
(ii) any private use of a vehicle owned, leased or otherwise hired at the cost of the employer;
(iii) private expenses such as electricity, water, telephone, gas, housemaid, medical expenses, education expenses and the like paid by the employer;
(iv) any subsidy or discount on interest on any loan provided by the employer representing the difference between the market lending rate of interest and the rate actually charged by the employer;
(v) the value of discount provided by an employer being the difference between the normal selling price of the item and the price at which the item is sold to the employee in respect of items forming stock-in-trade of the employer, or any discount provided under any reciprocal arrangement between two or more employers;
(vi) the value of free or subsidised travel provided by the employer or received by virtue of employment which entitles such free of subsidised travel to be provided by the employer or some other person;
(vii) contributions to any retirement or superannuation fund made by an employer which is in excess of the statutory minimum required to be made by the employer or in excess of the amount required to be contributed by the employer under the trust deed and rules setting up such fund, and any amount which the employer is entitled to recover from the employee, which is not so recovered;
(viii) any entertainment allowance not expended for the purpose of the employer’s business;

(aa) the value of any benefit or allowance as estimated by the Commissioner, granted in respect of, or arising from any business dealings, received either directly or indirectly, in cash or otherwise, and whether for the benefit of the recipient, his wife, dependent children, or other dependent relatives or, where the recipient is a company, whether received directly or indirectly by the company, any director, shareholder, or relative of any director or shareholder, or any employee of the company; and

(bb) any amount withdrawn from a cyclone reserve account in respect of which a deduction was allowed under section 21(1)(q) unless the amount withdrawn together with any interest thereon was applied towards the repair of property damaged by windstorm, tidal wave, landslide or a like catastrophe and, if required by the Commissioner, certified by the Commissioner of Insurance to have been so applied:

Provided that tax shall be assessed on the amount withdrawn and interest thereon in the year of withdrawal or in the year the deposit was made and interest credited, as the [company] opts.

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1 Cap. 146
2 Definition of “sale” substituted by §6 Act 21/1982 WEF 1st January 1983 – previously read:
“sale” shall be deemed to include an assignment or a disposition by way of a licence or easement, or the grant of any right or taking of any profits or produce from land;”

3 Substituted by §5 Act 21/1980 WEF 1st January 1980 – previously read:
“(h) in the case of rent from hiring films in Fiji derived by or accrued to a non-resident, an amount equal to 7½ per cent of the gross rent so derived or accrued;”


5 Inserted by §4 Act 2/1996 WEF 1st October 1995

6 Basic tax not chargeable WEF 1st July 1992 by repeal of §6 by §3 Decree 30/1992

7 Substituted by §6(a) Act 10/1998 WEF 1st January 1998 – previously read:
“(k) any amounts previously allowed as deductions either under paragraphs (a) and (c) [of subsection (1)] of section 21 or under section 23 which have been recovered or recouped by a taxpayer, after comparing the original cost after having been depreciated for income tax purposes or in respect of which an allowance was granted with the amount realised, in respect of any asset, property or undertaking which has been sold, destroyed or otherwise disposed of during the year of income (hereinafter referred to as a “balancing charge”):

Provided that—

(i) a taxpayer may elect that any balancing charge be excluded if, during the year of income in which the balancing charge arises, or in the next succeeding year of income, the taxpayer acquires an asset to replace the asset in respect of which the balancing charge has arisen. Any such election shall be in writing and shall be submitted to the Commissioner not later than the date for lodgement of the return of income of the first mentioned year, or within such further time as the Commissioner may allow. The amount by which the cost of the replacement asset has been reduced by the balancing charge shall, for the purposes of this Act, be deemed to be depreciation;

(ii) where the property which was acquired as a result of a transaction or transactions not at arms-length is subsequently sold, disposed of or destroyed, the deductions to be recovered and treated as income shall, where necessary, include any sums allowed as deductions to the respective vendor or vendors in such transactions to which the proviso in paragraph (a) of subsection (1) of section 21 has or would have applied;

(iii) where any property in respect of which such deductions have been allowed or are allowable (for the purposes of this paragraph called “the depreciated property”) is sold, together with any other property, at an inclusive price, the Commissioner may, for the purposes of this paragraph, determine the amount of the consideration attributable to the depreciated property;

(iv) in the event of the disposal or cessation of a trade, business, profession, employment or vocation, any asset, property or undertaking which is retained shall be valued at the date of cessation at the amount which, in the opinion of the Commissioner, it would realise in the open market and any consequences shall follow under this paragraph as if the asset, property or undertaking were disposed of at such open market value. Where the Commissioner deems it necessary in such circumstances, he may request a professional valuation of the property retained. Any withdrawal of depreciation shall be regarded as income of the year in which the trade, business, profession, employment or vocation ceased.”

8 Word “the” deleted by §3(c) Act 10/1977 WEF 1st January 1977

9 Inserted by §3(d) Act 10/1977 WEF 1st January 1977

10 Substituted for “; and” by §3(g) Act 10/1977 WEF 1st January 1977

11 Words “any enforceable legal agreement or” deleted by §4 Act 12/1982 WEF 1st January 1982

12 Substituted for “after the 1st day of July 1974 to the Fiji National Provident Fund” by §5 Act 3/1982 WEF 1st January 1982

13 Substituted by §5(e) Act 21/1980 WEF 1st January 1980 – previously read:
“(s) any royalty;”

14 Inserted by §5(f) Act 21/1980 WEF 1st January 1980


16 Inserted by §4 Act 25/1983 WEF 30th December 1983

17 Substituted for “tourist” by §6(b) Act 10/1998 WEF 1st January 1998

18 Inserted by §4 Act 25/1983 WEF 30th December 1983

19 Applications for allowance under Ninth Schedule expired on 31st December 1993 – see 9th Sch Note 3

20 Inserted by §5 Act 23/1985 WEF 1st January 1986

21 Inserted by §5 Act 23/1985 WEF 1st January 1986

22 Inserted by §5 Act 23/1985 WEF 1st January 1986

23 Substituted for “taxpayer” by §6 Decree 30/1992 WEF 1st July 1992

Deemed distribution

12.—(1) This section shall apply to a company which, at the end of its fiscal year, is under the control of not more than 5 persons, or a company which, at the end of that year, is in
liquidation and was, at the commencement of the winding up, under the control of not more than 5 persons. For the purposes of this subsection, all the members of any partnership shall be deemed to be 1 person and all the persons interested in the estate of any deceased person (whether as trustees or as beneficiaries) shall be deemed to be 1 person:

Provided that this section shall not apply to any company in which the public are substantially interested or to a subsidiary company of such a company, if the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof.

(2) For the purposes of this section—

(a) a company shall be deemed to be under the control of the persons—

(i) by whom more than one-half of the shares, or more than one-half of the issued capital, or more than one-half of the paid-up capital, or more than one-half of the voting power is held; or

(ii) who have, by any other means whatsoever, control of the company; or

(iii) who, by reason of the shareholding at the end of any fiscal year of the company (or in the case of a company in liquidation at the commencement of the liquidation), would be entitled to more than one-half of the profits for that year, if those profits were distributed by way of dividend at the end of that year.

Where shares in 1 company are held by or on behalf of another company, such shares shall be deemed to be held by the shareholders in the last mentioned company;

(b) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than 25 per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the fiscal year of the company (or in the case of a company in liquidation at the commencement of the liquidation) beneficially held by the public (not including a company to which the provisions of this section apply), and if any such shares have in the course of such fiscal year been, in fact, freely transferable by the holders to other members of the public.

(3) If the Commissioner, by applying the provisions of subsection (2), is satisfied that 2 or more companies are under the control of the same person or persons, he may, for the purposes of taxation, treat those companies as if they were a single company.

(4) For the purposes of subsection (2), where a company is not under the control of any 1 person the company shall be deemed to be under the control of not more than 5 persons if there is any 1 group of persons not exceeding 5 in number who are deemed to have control of the company by virtue of that subsection, notwithstanding that there may also be another group of persons not exceeding 5 in number who are deemed to have control of the company by virtue of that subsection or that there may be 2 or more such other groups.

(5) Where the Commissioner treats as a single company 2 or more companies any 1 or more of which holds shares in another company, the companies so treated as a single company shall be deemed to be 1 shareholder of that other company and for the purpose of subsection (1), to be 1 person.
(6) Where a nominee of any person holds any shares, issued capital, paid-up capital, or voting power in a company, or has by any other means whatsoever any power of control in a company, or is entitled to a share or profits distributed by a company, then, for the purposes of this section, those shares or that capital or that voting power or that power of control or that tide to profits, as the case may be, shall be deemed to be held by that person and, in every such case, that person and his nominee or that person and all his nominees shall be deemed to be 1 person. For the purpose of this subsection, “nominee”, in relation to any person, means any other person who may be required to exercise his voting power in relation to any company in accordance with the direction of that person, or who holds shares or debentures directly or indirectly on behalf of that person; and includes the husband or wife of that person and any relative of that person by blood, marriage or adoption.

(7) Where it appears to the Commissioner that, in respect of any company to which this section applies, the profits distributed as dividends by that company up to the end of the ninth month after the end of its fiscal year are less than 60 per cent of the total income of the company for that fiscal year ascertained in accordance with the provisions of this Act inclusive of any dividends received and reduced by the amount of any tax payable by that company upon that total income under the provisions of this Act, he shall, unless it appears to him that, having regard to losses previously incurred by the company or to the smallness of the profits made and taking into consideration not only the current requirements of the company’s business but also such other requirements as may be necessary or advisable for the maintenance and development of that business, a reasonable distribution was made, by notice in writing to the company, direct that the undistributed portion of 60 per cent of such total income (inclusive of any dividends received) reduced as aforesaid shall be deemed to have been distributed as dividends among the shareholders as at the end of such fiscal year of the company and thereupon the proportionate share thereof of each shareholder shall be included in the total income for the year in question of such shareholder for the purposes of this Act:

Provided that, in the case of an investment company or a company whose main business consists wholly or mainly in the provision of professional, technical or personal services, regard shall, for the purpose of this section only, be had in determining the profits distributable to the profits inclusive of any dividends received after provision has been made for the payment of tax thereon. In such cases, the Commissioner may direct that the whole of the undistributed portion of the net income after deduction of tax shall be deemed to have been distributed as dividends among the shareholders and the proportionate share thereof of each shareholder shall be included in the total income of the year in question as aforesaid. For the purpose of this proviso, “investment company” means any company whose business consists wholly or mainly in the making of investments in other companies and the principal part of whose income is derived therefrom.

(8) For the purposes of subsection (7), any such sum as is hereinafter described shall not be taken into consideration by the Commissioner as being applicable to current requirements of the company’s business or to such other requirements as may be necessary or advisable for the maintenance or development of that business, that is to say—

(a) any sum expended or applied, or intended to be expended or applied, out of the income of the company, otherwise than in pursuance of an obligation entered into by the company before 21 November 1972—
(i) in or towards payment for the business, undertaking or property which the company was formed to acquire, or which was the first business, undertaking or property of a substantial character in fact acquired by the company; or

(ii) in redemption or repayment of any share or loan capital or debt (including any premium on such share or loan capital or debt) issued or incurred in or towards payment for any such business, undertaking or property, or issued or incurred for the purpose of raising money applied or to be applied in or towards payment therefor; or

(iii) in meeting any obligations of the company in respect of the acquisition of any such business, undertaking or property; or

(iv) in redemption or repayment of any share or loan capital or loan debt (including any premium on such share or loan capital or debt) issued or incurred otherwise than for adequate consideration; and

(b) any sum expended or applied, or intended to be expended or applied, in pursuance or in consequence of any fictitious or artificial transaction.

(9) If, in any case, a company should claim exemption from the provisions of subsection (8) on the grounds that its operations are for the economic development of Fiji and that the capitalisation of the company is reasonable, the Commissioner should refer such claim to the Minister, who, if he is satisfied that the claim is established, may determine that the provisions of that subsection (other than of paragraph (b) thereof) shall not apply to that company.

(10) For the purposes of subsection (8), share or loan capital or debt shall be deemed to be issued or incurred otherwise than for adequate consideration if—

(a) it is issued or incurred for consideration the value of which to the company is substantially less than the amount of the capital or debt (including any premium thereon); and

(b) it is issued or incurred in or towards, or for the purpose of raising money applied or to be applied in or towards, the redemption or repayment of any share or loan capital or debt which itself was issued or incurred for such consideration as mentioned in paragraph (a) of subsection (8) or which represents, directly or indirectly, any share or loan capital or debt which itself was issued or incurred for such consideration,

and a reference, in this subsection and in subsection (8), to money applied or to be applied for any purpose shall be deemed to include a reference to money applied or to be applied in or towards replacement of that money.

(11) Where the Commissioner has issued a notice in writing to the company in accordance with the provisions of subsection (7) to deem undistributed income of the company to have been distributed as dividends among the shareholders, such dividends shall be subject to tax in accordance with the provisions of this Act and the company shall, within 60 days of the receipt by it of the notice in writing, make the appropriate payment to the Commissioner as though the dividends were paid or credited to the shareholders as at the date of receipt of such notice. In default of payment of the amount of tax due, it shall be recoverable from the company in the manner provided by section 77.
(12) Where tax has been paid in respect of any undistributed profits of a company under this section, and such profits are subsequently distributed, they shall not again be included as total income, for the purposes of this Act, in the hands of the recipient.

(13) When a company is a shareholder deemed under subsection (7) or (15) to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be part of its total income for the purposes also of the application of those subsections to distributions of profits by that company.

(14) Where any undistributed portion of the total income of a company has been deemed, by notice given under the provisions of this section, to have been distributed as dividends to the shareholders of that company, the company shall within 21 days of the date of the service of such notice furnish each shareholder with a certificate setting forth the amount of the dividend deemed to have been distributed to that shareholder and shall send a copy of such certificate to the Commissioner and, in default of such certificate being furnished, the Commissioner may determine such amount.

(15)(a) Where a company to which this section applies is in liquidation—

(i) the income of the company for the period from the end of the last fiscal year to the commencement of the liquidation shall, for the purposes of this section, be deemed to be income of that period available for distribution to the shareholders of the company; and

(ii) as respects that period, and also, where the commencement of the liquidation was not more than 9 months after the end of the fiscal year, as respects that fiscal year, subsection (7) shall apply as if the words “up to the end of the ninth month after the end of its fiscal year” were omitted therefrom;

(b) any notice required under this section to be served on a company may, where the company is in liquidation, be served upon the liquidator of the company, and the liquidator shall be responsible for doing all matters or things required to be done by or on behalf of the company, and the liquidator shall be responsible for the due payment of any tax payable by or recoverable from the company under the provisions of this section;

(c) the income apportioned to a shareholder of the company for the period from the end of the last fiscal year to the commencement of the liquidation shall, for the purposes of tax, be deemed to have been received by him at the commencement of such liquidation.

(16) A notice under subsection (7) or (15) shall be deemed to be an assessment for the purpose of lodging an objection under section 62:

Provided that, notwithstanding anything contained or implied in section 71, any determination, decision or opinion of the Commissioner as to whether a distribution is reasonable or not shall be subject to review by the Court of Review and the onus of proof that a reasonable distribution was not made shall in all cases be on the Commissioner.

(17) For the purposes of this section—
“commencement of the liquidation” means the making of the order or the passing of the resolution, or the signing of the instrument, or the making of the application, or the doing of the act, as the case may be, which initiates the winding up of the company;

“company” does not include a non-resident company;

“debenture holder” means a person by whom or on whose behalf debentures issued by the company are held at the end of the fiscal year of such company (or in the case of a company in liquidation, at the commencement of the liquidation) in respect of which debentures the rate of interest payable is not specifically determined but is determinable from time to time by reference to the dividend payable by the company or otherwise howsoever;

“shareholder” means a person by whom or on whose behalf shares in the company are held at the end of the fiscal year of such company (or in the case of a company in liquidation, at the commencement of the liquidation), and includes a debenture holder.

Trading stock

13.—(1) Where any trading stock is sold together with other assets of a business, the part of the consideration attributable to such trading stock shall, for the purposes of this Act, be determined by the Commissioner and the part of the consideration so determined shall be deemed to be the price paid for the trading stock by the purchaser, and the price received by the vendor.

(2) For the purposes of this section, any trading stock which has been disposed of otherwise than by sale shall be deemed to have been sold and any trading stock so disposed of and any trading stock which has been sold for a consideration other than cash shall be deemed to have realised the market price thereof at the date of the disposition or sale but, where there is no market price, trading stock shall be deemed to have realized such price as the Commissioner in his discretion may determine.

(3) Where any trading stock is sold or otherwise disposed of without consideration in money or money’s worth or for a consideration that is less than the market price or the true value thereof at the date of the sale or other disposition, the following provisions shall apply, namely—

(a) the trading stock shall be deemed, for the purpose of this Act, to have been sold at and to have realised the market price thereof at the date of the sale or other disposition but, where there is no market price, shall be deemed to have been sold and to have realised such price as the Commissioner in his discretion may determine;

(b) the price which, under the provisions of this section, the trading stock is deemed to have realised shall be taken into account in calculating the total income of the person selling or otherwise disposing of the trading stock;

(c) the person acquiring the trading stock shall, for the purpose of calculating his total income, be deemed to have purchased the trading stock at the price which, under the provisions of this section, the trading stock is deemed to have realised.
(4) Where trading stock is stolen, destroyed or in any way lost, and is the subject of an insurance or indemnity claim, any recoveries under such insurance or indemnity shall be regarded as trading or business income.

Income deemed to be derived from Fiji

14. Subject to the provisions of this Act, the following classes of income shall be deemed to have been derived from Fiji:—

(a) interest in respect of loans made after 30 November 1973, borne either directly or indirectly by a resident, or by a non-resident carrying on business in Fiji:

Provided that such interest shall not be so deemed, if—

(i) the loan was provided in a currency other than Fiji currency;
(ii) the debtor is a resident carrying on business in Fiji;
(iii) neither the lender nor the debtor has control one over the other, and no other person or persons has or have control directly or indirectly over both of them;
(iv) the loan moneys have been, or, in the opinion of the Commissioner will be, employed in Fiji for the purpose either of—

(a) capital construction or reconstruction of hotels, commercial, agricultural or industrial premises and similar projects, in Fiji, but excluding the cost of the land;
(b) capital expenditure relating to mining and mineral exploration in Fiji;
(c) capital expenditure relating to fixed assets in commercial, agricultural or industrial venture in Fiji; or
(d) any other use which the Minister considers expedient to the economic benefit of Fiji;

Income of beneficiaries and estates of deceased persons

(b) any income received by, or accrued or in favour of, any person in his capacity as the personal representative of the estate of a deceased person and any amount so received or accrued which would have been income in the hands of the deceased person had it been received by or accrued to [him] or in his favour during his lifetime. Such income or amount shall, to the extent that the Commissioner is satisfied that it has been derived for the immediate or future benefit of any beneficiary under the estate of such deceased person, be deemed to be income received by or accrued to or in favour of such beneficiary, and, to the extent that the Commissioner is not so satisfied, shall be deemed to be income of such estate.

So much of the amount of any expenditure incurred by or on behalf of the estate of any deceased person during any year as, in the opinion of the Commissioner, relates to any amount of income deemed to be income received by or accrued to beneficiary of such deceased person under the provisions of this paragraph shall—

(i) not be taken into account in the determination of the taxable income of such estate; and
(ii) be deemed to be expenditure incurred by such beneficiary during such year, and shall, to the extent that the deduction of expenditure of the nature of the expenditure in question is authorised by this Act, be taken
into account in the determination of the taxable income of such beneficiary. Nothing in this sub-paragraph shall be construed as imposing liability for tax in respect of the same amount both in the hands of the estate or beneficiary and in the hands of such deceased person;

(c) any income deemed to accrue to any person making any gift, settlement or other disposition to which the provisions of subsection (4) of section 15 apply.

1 Inserted by §18(c) Act 24/1976 w.e.f date of publication of Act (after 23rd September 1976)

When income is deemed to have accrued or to have been received

15.—(1) Income shall be deemed to have accrued to a person, notwithstanding that such income has been invested, accumulated or otherwise capitalised by him or that such income has not been actually paid over to him but remains due and payable to him or has been credited in account or reinvested or accumulated or capitalised or otherwise dealt with in his name or on his behalf, and a complete statement of all such income shall be included by any person in the returns rendered by him under this Act.

Income of minor child deemed to be income of parent or grand-parent

(2) Income shall be deemed to have been received by the parent or grand-parent of any minor child if, by reason of any gift, settlement or other disposition made by that parent or grand-parent of that child –

(a) it has been received by or has accrued to or in favour of that child or has been expended for the maintenance, education or benefit of that child; or

(b) it has been accumulated for the benefit of that child.

Income arising from such gift, settlement or other disposition shall be regarded, for the purpose of this subsection, mutatis mutandis, as being included in such gift, settlement or other disposition.

Reciprocal arrangements - minor children

(3) Any income received by, or accrued to or in favour of, any minor child of any person, by reason of any gift, settlement or other disposition made by any other person, shall be deemed to be the income of the parents of such minor child, if either parent has made a gift, settlement or other disposition or given some other consideration directly or indirectly in favour of such other person or any member of that other person’s family.

Revocable settlements

(4) If any deed or gift, settlement or other disposition contains any stipulation that the right to receive any income thereby conferred may, under powers retained by the person by whom that right is conferred, be revoked or conferred upon another, so much of any income as in consequence of the gift, settlement or other disposition is received by, or accrues to or in favour of, the person on whom that right is conferred shall be deemed to be the income of the person by whom it is conferred, so long as he retains those powers.

Gift, settlement or disposition if income not receivable by beneficiaries

(5) Subject to the other provisions of this section, in the case of any income arising from any gift, settlement or other disposition made by any person, which is subject to any stipulation or condition, whether made or imposed by such person or any other person, to the effect that
the beneficiaries thereof or any of them shall not receive the income or some portion of the income thereunder until the happening of some event, whether fixed or contingent, so much of any income as would, but for such stipulation or condition, in consequence of the gift, settlement or other disposition be received by or accrue to or in favour of the beneficiaries or any of them, shall, until the happening of that event or the death of the person making the gift, settlement or other disposition whichever first takes place, be deemed to be the income of that person.

(6) For the purposes of this section—

“gift, settlement or other disposition” shall include the admission into a partnership of a minor child;

“minor child” means any child, adopted child or step-child who has not attained the age of 21 years before 1 January in the year of assessment.

[Division 2 – Items of Income Not Liable either to [Basic tax] or Normal tax or [Basic Tax] and Normal tax]

Exemption of certain income from tax

16.—(1) The Minister may, by order, provide that—

Exemption of interest on Government loans

(a) the interest payable on any loan charged on the public revenue of Fiji shall be exempt from tax, and such interest shall, as from the date and to the extent specified in the order, be exempt accordingly;

Exemption of income of co-operative society

(b) the income of any co-operative society registered under the Co-operative Societies Act shall be exempt from tax. The period of the exemption shall be as specified in the order but the income of the co-operative society shall not, by virtue of such order, be exempt from tax in respect of any period after the expiration of 8 years from the date of its registration;

(c)(i) the income derived by an individual from coconut growing, rice farming, dairy farming, beef production or goat farming (in this sub-paragraph referred to as “farming income”) shall be exempt from normal tax for a period of 5 years commencing on [1 January 1986], subject to the conditions that the individual shall deliver to the Commissioner a return of his total income in accordance with the provisions of this Act, and that, if he has income other than farming income, such other income shall be liable to tax, and the farming income shall be exempt from normal tax at the average rate of normal tax applicable to the individual for the year of assessment; and, for the purposes of this sub-paragraph, the average rate of normal tax of the individual for the income year in question shall be the total normal tax payable by him for that income year divided by his total income (including all exempt farming income) for that income year;

(ii) the income (in this sub-paragraph referred to as “prescribed farming income”) derived by an individual from any other farming activity, including fishing and forestry but excluding cane farming, shall be exempt from normal tax for a period of 4 years commencing on 1 January 1987 subject to the conditions that the individual shall deliver to the Commissioner a return of his total income in accordance with the provisions of this Act, and that if he has income other than prescribed farming income, such other income shall be exempt from normal tax
at the average rate of normal tax applicable to the individual for the year of assessment; and for the purposes of this sub-paragraph the average rate of normal tax of the individual for the income year in question shall be the total normal tax payable by him for that income year divided by his total income (including all exempt prescribed farming income) for that income year;

(iii) the income derived by a taxpayer, whether an individual or not, from cane farming (in this sub-paragraph referred to as “cane farming income”) shall be exempt from normal tax for a period of five years commencing on 1 January 1986 subject to the conditions that where the Commissioner requires such return or where the taxpayer derives other income he shall deliver to the Commissioner a return of his income in accordance with the provisions of this Act, and that such other income shall be liable to tax, and the cane farming income shall be exempt from normal tax at the average rate of normal tax applicable to the taxpayer for the year of assessment; and for the purposes of this sub-paragraph the average rate of normal tax of an individual for the income year in question shall be the total normal tax payable by him for that income year divided by his total income (including all exempt cane farming income) for that income year.

(2) The Minister may, either by order, or by written direction to the Commissioner, where he is satisfied that it is expedient for the economic development of Fiji—

Exemption of certain mining companies

(a) in the case of a mining company, specify that the whole of the income of such company, for such period as may be specified in such notice, shall be exempt from tax or taxable at such reduced rate as may be specified;

Companies engaged in approved enterprises

(b) specify any company engaged in an approved enterprise as being one to which the tax concessions contained in the Third Schedule shall apply and such company shall accordingly enjoy such concession;

(c) specify any interest deemed under paragraph (a) of section 14 to be derived from Fiji to be exempt from tax or taxable at such reduced rate as may be specified;

(d) specify any trade and any product to be an approved trade and an approved product qualifying for an export incentive under the provisions of the Fifth Schedule and any such sum referred to in that Schedule shall be exempt from tax or chargeable at such reduced rate as may be specified;

(e) in the case of a non-resident company engaged in making a film in Fiji, provided such company complies with the provisions of the Sixth Schedule, specify that the income derived by a non-resident individual to be engaged by such company for the purpose of making a film in Fiji will, for such period as may be specified, be exempt from tax, or taxable at such reduced rate as may be specified. For the purposes of this paragraph, the expression “film” means a cinematographic film made or intended for public exhibition or for use in connection with television;

(f) specify, upon such conditions as he thinks fit, any company engaged in any agricultural enterprise designated by him, [or engaged solely in agricultural contracting,] as being a company to which the tax concessions contained in the Seventh Schedule shall apply, and such company shall accordingly enjoy such concessions.
(3) The income arising from investments made by the Banaban Trust Fund Board in accordance with section 6C of the Banaban Settlement Act shall be exempt from normal tax.

(4) A person who has been certified in accordance with sub-paragraph (1) of paragraph 3 of the Eighth Schedule shall be entitled to a deduction of investment allowance from total income in accordance with that Schedule.

(5) A person who has been certified in accordance with sub-paragraph (1) of paragraph 3 of the Ninth Schedule shall be entitled to a deduction of supportive projects to tourist industry investment allowance from total income in accordance with that Schedule.

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1. Basic tax not chargeable WEF 1st July 1992 by repeal of §6 by §3 Decree 30/1992
2. Basic tax not chargeable WEF 1st July 1992 by repeal of §6 by §3 Decree 30/1992
3. Substituted by §5 Act 12/1982 WEF 1st January 1982 – previously read:
   “B — AMOUNTS TO BE EXCLUDED IN ARRIVING AT TOTAL INCOME”
4. Enacted in Act 6/1974 as §16(1)(i)
5. Enacted in Act 6/1974 as §16(1)(ii)
7. Paragraph (b) substituted by §6(a) Act 21/1980 WEF 1st January 1980 – previously read:
   “(ii) the income of any co-operative society registered under the Co-operative Societies Ordinance shall be exempt from tax. The period of exemption shall be as specified in the order but the income of a co-operative society shall not by virtue of such order be exempt from tax in respect of any period after the expiration of five years from the date of its registration.”
10. Sub-paragraph (c)(ii) substituted by §5 Act 25/1986 WEF 1st January 1987
11. Sub-paragraph (c)(iii) substituted by §6(b) Act 23/1985 WEF 1st January 1986
12. Paragraph (e) inserted by §6(b) Act 21/1980 WEF 1st January 1980
15. Subsection (3) inserted by §4(c) Act 7/1981 WEF 1st January 1981
16. Cap. 123
17. Subsection (4) inserted by §5 Act 25/1983 WEF 30th December 1983

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Incomes not taxable

17. … The following classes of income shall not be chargeable to …

(1) the emoluments of office allowed to the [President of the Republic of Fiji];

(2) the income of any co-operative dairy company incorporated in Fiji and registered under the provisions of the Co-operative Dairy Companies Act, in so far only as it is derived from the collection, treatment or manufacture and distribution of dairy produce from milk or cream supplied by shareholders, or from the investment of any surplus funds from such activities not distributed to shareholders;

(3) the capital element repayment from any life annuity purchased and taken out by a person on his own life, being a life annuity granted for a lump sum in consideration of money or money’s worth in the ordinary course of business of granting annuities on human life;

(4) the income of any company, commission or association not less than 90 per cent of the stock or capital of which is owned by a town council established under the provisions of the Local Government Act and all incomes of a town council or other local or public authority other than incomes received in trust;
(5) the income of any institution, body of persons or irrevocable trust of a public character established solely for the relief of the poverty or distress of the public, or for the advancement of religion or education, in so far as the **Commissioner** is satisfied that such income is to be expended either in Fiji or for purposes which result in benefit of the residents of Fiji:

Provided that any such income which consists of profits or gains from a business shall not be exempt from [basic tax]\(^6\) and normal tax unless such profits or gains are applied solely for any of such purposes;

(6) the income derived from any pensions granted to any member of [the State’s]\(^7\) naval, military or air forces for any disability suffered by the pensioner while serving in any of [the State’s]\(^8\) forces during any war, and the income derived from any pension granted to any dependent relative of any person who was killed or suffered any disability while serving in such forces during any war in respect of such death or disability;

(7) the income derived by the [Reserve Bank of Fiji]\(^9\) … \(^10\) or any sinking fund in respect of the public debt;

(8)\(^11\) The income derived from any investment in any loan raised by the Government referred to in paragraph (a) of subsection (1) of section 16;

(9) the official allowances paid to the Speaker and members of the House of Representatives and to the President and members of the Senate;

(10) the income of any provident fund lawfully established by a town council.

(11) the income of the Civil Service Widows and Orphans Pensions Scheme, and the Non-Pensionable Employees Fund established under the Government Employees Provident Fund Ordinance\(^12\);

(12) the income of an approved fund;

(13) (i) any capital payment received by way of death gratuity or consolidated compensation for death or injury;

(ii) so much of any **lump sum** relating to an office or employment as [in the opinion of the **Commissioner** is reasonable but in any event not exceeding]\(^13\) $5,000, less any other amounts which have been excluded from the taxpayer’s income by virtue of the provisions of this paragraph whether in the current or any previous year of assessment. “Lump-sum” for the purpose only of this sub-paragraph means any amount, other than [a redundancy payment]\(^14\) a contractual sum, received by or accrued to the holder of any office or employment because of the termination or impending termination of the services required to be rendered by him as the holder of that office or employment or for the relinquishment, termination, loss, repudiation, cancellation or variation of his office or employment or in respect of his appointment, or of his right or claim to be appointed to any office or employment and includes any sum paid on retirement which, in the opinion of the **Commissioner** is reasonable, if the holder of the office or employment [has either been a **contributor** to an approved fund or to the Fiji National Provident Fund provided payment is made on or before 31st December [1986]\(^15\) and the holder has attained the age of 55 years or more, or]\(^16\) has not been a contributor
to an approved fund or to the Fiji National Provident Fund, but does not include—

(a) any refund from an approved superannuation or retirement benefit fund, including the Fiji National Provident Fund;

(b) any amount received or accrued in respect of or in commutation of any amount due under any contract or employment or service;

(c) any payment in respect of or in lieu of leave;

(iii) any capital payment or refund from an approved superannuation or retirement benefit fund, including the Fiji National Provident Fund, paid to a contributor, or in the case of his death to the person entitled thereto, in any of the following cases:—

(a) on the death or permanent disability of a contributor;

(b) where the Commissioner is satisfied that a contributor has been compulsorily retired on grounds of ill-health;

(c) in the case of a female contributor, on her marriage;

(d) except in the case of the Fiji National Provident Fund, on the retirement of a contributor on his attaining the age of 55 [or more]17 years; or

(e) in the case only of the Fiji National Provident Fund in respect of all minimum statutory contributions made;

(iv) for the purposes of this paragraph, the word “contributor” in relation to the Fiji National Provident Fund shall have the same meaning as “member” in the Fiji National Provident Fund Act;

(14) the pay and allowances of any member of [the State’s] forces serving in Fiji, in so far as such pay and allowances are derived from funds other than the funds of the Government of Fiji;

(15) the pay and allowances of any member, of [the State’s] forces who [is] ordinarily resident in Fiji but [is] serving outside Fiji, in so far as such pay and allowances are derived from funds other than funds of the Government of Fiji: Provided that, with effect from 20 May 1978, payments made to a member of [the State’s] Forces ordinarily resident in Fiji but serving with the United Nations Forces, which are additional to the normal pay and allowances to which such member would be entitled if serving in Fiji, shall not be chargeable to basic tax and normal tax, regardless of derivation;

(16) the income, other than income derived from Fiji, of a member of the armed forces of any foreign power allied with [the State], serving in Fiji;

(17) the income of any society registered under the provisions of the Co-operative Societies Act, whose sole objects are accepting deposits from members and non-members and granting loans for productive or provident purposes to members, only in so far as such income is not derived from a trade or business carried on by such society;

(18) the income of an association of persons established solely, for the purpose of controlling or furthering any amateur sport or game, if no part of the income or
other funds of the society or association is used or available for the pecuniary profit of any proprietor, member or shareholder thereof;

(19) the income arising from a scholarship awarded to a person for the of fulltime instruction at a university, college, school or other educational establishment;

(20) any education allowance paid to a designated officer in pursuance of the Overseas Service (Fiji) Agreement, 1961, or to any member of the staff of the University of the South Pacific in pursuance of an agreement with any overseas government;

(21) the income, other than income derived from Fiji, of a member of an official mission approved by the Minister, of any foreign power allied with [the State]\(^\text{27}\), serving in Fiji;

(22) the income of any trade union registered under the provisions of the Trade Unions Act\(^\text{28}\), or any industrial association registered under the provisions of the Industrial Associations Act\(^\text{29}\), in so far as such income is not derived from a trade or business carried on by such trade union or industrial association;

(23) the income, other than income derived from Fiji, derived by any individual by reason of his service in Fiji on secondment from the Government service of another territory in such circumstances that that other territory continues to be responsible for payment of his emoluments during such secondment, if he is not also granted exemption from income tax on such income in that other territory;

(24) the income of any club, society or association, organised and operated exclusively for social welfare, civic improvement, pleasure or recreation, or for any other purpose except profit, no part of the income of which is payable to, or is otherwise available for the personal benefit of any proprietor, member or shareholder thereof, in so far as such income is not derived from a trade or business carried on by such club, society or association;

(25) …\(^\text{30}\)

(26) the income of the Fiji National Provident Fund;

(27) interest credited to the account of a member of the Fiji National Provident Fund under the provisions of the Fiji National Provident Fund Act\(^\text{31}\);

(28) compensation payable under the Compensation Scheme to a pensionable designated officer under the Overseas Service (Fiji) Agreement, 1961, who retires in the interests of localisation;

(29) the income of the Fiji Development Bank;

(30) the income of a member of the American Peace Corps working in Fiji;

(31) …\(^\text{32}\)

(32) any income which neither accrues in, nor is derived from or received in, Fiji by any person who satisfies the Commissioner that his permanent place of abode is outside Fiji and that he is resident in Fiji solely or mainly for the purpose of engaging in employment in Fiji under a contract of employment of not more than 3 years’ duration:\(^\text{33}\)

Provided that such exemption shall not extend to earnings derived from any employment, the duties of which are performed outside Fiji, during any year in which such person resides in Fiji;
(33) such part of the emoluments of the office of public servants who are required to live outside Fiji in order to perform their duties as does not represent the basic salary, and any gratuity paid, in respect of their office;

(34) any benefits arising from passage costs incurred by an employee and reimbursed by his employer or payable on behalf of the employee by the employer where the employee is not a Fiji citizen and was not recruited in Fiji or where terms of these conditions are not satisfied but the Commissioner considers that hardship would result if such amounts were assessed. Any such costs shall be limited to the economy airfare by the most direct route between Fiji and the territory in which he was recruited in respect of the employee and his family. The journeys other than business journeys qualifying for exemptions under this paragraph shall be limited to—

(i) those on initial arrival in and final departure from Fiji;
(ii) 1 return journey per annum for leave purposes;
(iii) journeys made for urgent family reasons;

(35) the income of the Fiji National Training Council;

(36) the income of Air Pacific Limited (formerly known as Fiji Airways Limited) in respect of all income earned after 31 March 1970 and before 31 March 1975;

(37)\(^{(34)}\) Any dividend from a company incorporated in Fiji received by or accrued to a resident company other than a unit trust. For the purposes of this paragraph, “dividend” shall have the meaning ascribed to it by subsection (2) of section 8;

(38) any sum (which in the aggregate shall not be in excess of $5,000) which the Commissioner considers to be reasonable in respect of the cancellation of passage costs which the employer would otherwise have paid by virtue of any contract or implied contract entered into prior to 1 January 1972;

(39) any dividend which has been subjected to non-resident dividend withholding tax from a company incorporated in Fiji received by a non-resident;

(40) any interest paid on an overseas loan to a non-resident by a bank in possession of a valid licence granted under the provisions of the Banking Act\(^{35}\);

(41) any sum paid to an employee on final retirement after a period of continuous service of not less than 10 years by a statutory corporation or by the Government of Fiji under a contract in existence at 31 December 1973;

(42) any concession enjoyed under subsection (2) of section 11 of the Ordinance\(^{36}\) repealed by this Act either—

(i) immediately before 1 January 1969; or
(ii) under the provisions of the Income Tax (Amendment) Ordinance, 1968\(^{37}\), until such time as such respective concessions shall expire;

(43) any pension received by a resident\(^{38}\) from the Fiji National Provident Fund;

(44)\(^{(39)}\) the interest payable on any loan charged on the public revenue of Fiji or any interest accruing on an account in the National Bank of Fiji to any institution, body of persons or irrevocable trust of a public character which is not a resident of Fiji and which has been established solely for the relief of poverty or distress of the public or for the advancement of religion or education;
(45) the income derived by an individual who is a member of the staff of the University of the South Pacific or is the holder of any appointment sponsored by the Fiji Government which is payable under any scheme of supplementation by virtue of any agreement between the Fiji Government and the Government of another State if such income is paid, and is subject to tax, in that other State;

(46) the income of Polynesian Airlines Limited in respect of all income earned after 31 March 1974 and before 31 March 1979;

(47) the interest and other charges payable to the Commonwealth Development Corporation by the Fiji Electricity Authority in respect of the loan of £5,000,000 sterling raised by the Authority from the Corporation for the purposes of the Monasavu Hydro-Electric Scheme;

(48) for a period of 3 years commencing on 1 January 1987, the income, equivalent to the income on which rebate would be granted under paragraph 5(i) of the Fifth Schedule, of a company which is engaged in the export of timber grown in Fiji;

(49) the emoluments derived by an individual by reason of his service at the University of the South Pacific—

(i) under the Australian Universities International Development Programme in such circumstances that the Programme is responsible for such emoluments and only to the extent that such emoluments are paid under the Programme and are subject to income tax in Australia; or

(ii) as the holder of any appointment in respect of which emoluments are payable under any scheme of supplementation of the Government of Australia approved by the Government of Fiji, only to the extent to which such emoluments are subject to income tax in Australia;

(50) Any pension received by a resident individual…

(51) the interest and other charges payable to the Commonwealth Development Corporation by the Fiji Development Bank in respect of the loan of up to five million pounds sterling raised by the Fiji Development Bank from the Commonwealth Development Corporation for the purpose of assisting the Fiji Development in its intended programme of advances by way of loans to persons in Fiji engaged in small-scale farming and fishing enterprises for the purposes of those enterprises;

(52) any profits arising out of the transfer of assets and liabilities to Fiji Pine Limited pursuant to the provisions of the Fiji Pine Decree, 1990;

(53) Notwithstanding the provisions of subsection (2) of section 21, any dividend which has been paid or credited in favour of a resident individual by a company holding an operating licence granted under the provisions of the Tax Free Zones Decree 1991 out of its profits attributable to export earning and that such company qualifies for relief in accordance with the Fifth Schedule of this Act:

Provided that—

(i) in the event of sale or disposal by any other means of shares held in such a company by a resident individual within 5 years immediately following their acquisition such dividend paid or credited by that company in any year shall not be exempt from [basic tax] and normal tax in the hands of the resident individual shareholder and shall be assessed for such tax in accordance with
subsection (2) of section 21 and that such dividend shall be included as total income and apportioned over a period including the year of sale or disposal and the immediately preceding 2 years.

(ii) exemption under this paragraph shall not apply on the cancellation or withdrawal of a company’s operating licence within 5 years of the date the licence was granted and the resident individual shareholder shall be assessed for tax as prescribed in proviso (i) of this paragraph;

(54) the income derived by the Taisei Corporation of Japan regarding the redevelopment of the Fiji School of Medicine and the Colonial War Memorial Hospital, in accordance with the Diplomatic Notes dated 23 July, 1991 exchanged between the Government of Japan and the Government of the Republic of Fiji;

(55) Notwithstanding the provisions of subsection (2) of section 21, any dividend which has been paid to or credited in favour of a resident individual in respect of shares of a company listed at the Suva Stock Exchange. For the purposes of this paragraph “dividend” shall have the meaning ascribed to it by subsection (2) of section 8;

(56) any dividend paid to or credited in favour of a resident individual from the Unit Trust of Fiji;

(57) the nominal value of any bonus shares which is exempt from dividend tax pursuant to the provisions of paragraph (f) of subsection (3) of section 10;

(2) …
16 Inserted by §4(c) Act 10/1977 WEF 1st January 1976
17 Inserted by §7(a) Act 10/1975 WEF 1st January 1974
18 Substituted by §7(e) Act 3/1982 WEF 1st January 1982; “either” and “or” by §4(d) Act 10/1977 WEF 1st January 1977 – previously read:

“(e) in the case only of the Fiji National Provident Fund ... —
(a) in respect of contributions made up to the 30th day of June, 1974; ...
(bb) in respect of contributions made after the 30th day of June, 1974 if at the date of payment after
that date, a contributor to that Fund—
(aaa) is a Fiji citizen; or
(bbb) has attained the age of 55 years; or
(ccc) has been a contributor for at least 10 years;
Provided that where, under the terms of an approved fund a lump sum may be paid which would
otherwise be liable to tax under the provisions of proviso (o) of section 11 of this Act, any sum
representing contributions up to the 30th day of June, 1974 shall be regarded as exempt under the
provisions of this paragraph notwithstanding that the requirements of sub-paragraph (a), (b), (c) or
(d) of this paragraph are not satisfied.”

Previously substituted by §7(b) Act 10/1975 WEF 1st January 1974 – previously read:

“(e) in the case only of the Fiji National Provident Fund if, at the date of payment, a contributor to that
Fund—
(a) is a Fiji citizen;
(bb) has attained the age of 55 years; or
(cc) has been a contributor for at least 10 years;”

19 See Note 7
20 See Note 7
21 Substituted for “are” by §4(e) Act 10/1977 WEF 1st January 1977
22 Reference to “State” substituted for “Her Majesty” by §3(f) WEF 7th October 1987
23 Basic tax not chargeable WEF 1st July 1992 by repeal of §6 by §3 Decree 30/1992
24 Inserted by §2(b) Act 11/1979 WEF 6th April 1979
25 See Note 7
27 See Note 7
28 Cap. 96
29 Cap. 95
30 Repealed by §(3) Decree 30/1992 WEF 1st July 1992 – previously read:

“(25) the income of the Fiji Electricity Authority;”
31 Cap. 219
32 Repealed by §2(2) Decree 54/1991 WEF 1st January 1991 – previously read:

“(31) the income of the National Marketing Authority;”
33 Inserted by §4(f) Act 10/1977 WEF 1st January 1977
34 Substituted by §4 Act 23/1979 WEF 1st January 1978 – previously read:

“(37) any dividend from a company incorporated in Fiji received by or accrued to a resident company.
For the purposes of this paragraph, “dividend” shall have the same meaning as in paragraph (a) of
sub-section (2) of section 8 of this Act;”
36 Cap. 176 1967 Laws of Fiji
37 Ordinance 46/1968
38 Substituted for “Fiji citizen” by §6 Act 25/1983 WEF 1st January 1984
39 Inserted by §7(c) Act 10/1975 WEF 1st January 1974
40 Inserted by §7(c) Act 10/1975 WEF 1st January 1974
41 Inserted by §7(c) Act 10/1975 WEF 1st January 1974
42 Inserted by §2(c) Act 11/1979 WEF 6th April 1979

“(48) for a period of 3 years commencing on 1 January 1982, the income, equivalent to the income on
which rebate would be granted under paragraph 5(i) of the Fifth Schedule, of a company which is
engaged in the export of indigenous timber;”
44 Inserted by §2(b) Act 9/1985 WEF 5th July 1985
45 Paragraph inserted by §7 Act 23/1985 WEF 1st January 1986
46 Words “to the extent of $3,000” repealed by substitution by §7(4) Decree 30/1992 WEF 1st July 1992; “$3,000” substituted for “$1,000” by §5 Decree 10/1990 WEF 1st January 1990
47 Inserted by §42 Decree 4/1989 WEF 7th March 1989
48 Inserted by §2 Decree 16/1991 WEF 2nd May 1991
49 Decree 29/1990
Redundancy payments

17A. Notwithstanding any other provision of this Act tax shall be assessed, levied, and paid in respect of any redundancy payment received on or after 1st October 1995 as follows:

(a) on the first $15,000 of any such payment at the rate of NIL %;

(b) on any amount in excess of $15,000 at the rate of 15%.

Shipping profits

18.—(1) Where income arises from the business of shipping carried on by a non-resident, and the Minister is satisfied that an equivalent exemption from income tax is granted to persons resident in Fiji by the country in which such non-resident resides, such income shall be exempted from tax payable under this Act.

(2) For the purpose of subsection (1)—

(a) a company shall be deemed to be resident only in that country in which the central management and control of its business is situated;

(b) “business of shipping” means the business carried on by an owner of ships, and, for the purpose of this definition, "owner" includes any charterer.

Expenses not deductible

19. In determining total income, no deductions shall be allowed in respect of—

(a) personal and living expenses and, in cases in which personal and living expenses form part of the profit, gain or remuneration of the taxpayer, the same shall be included in total income;

(b) any disbursement or expense not being money wholly and exclusively laid out or expended for the purpose of the trade, business, profession, employment or vocation of the taxpayer;

(c) any loss not connected with or arising out of the trade, profession, business, employment or vocation of the taxpayer;

(d) any loss or expense, the deduction of which would otherwise be allowable, to the extent to which it is recoverable under any contract of insurance, guarantee, surety or indemnity;
(e) the taxation levied on incomes;

(f) any expense incurred in respect of—

(i) any amount received, receivable, or accrued which is not included in total income or, if so included, is exempted under section 16 or 17, or is not included in chargeable income under any of the provisions of this Act;

(ii) any investment or property the income arising from which will not be included in total income or, if so included, will be exempted under section 16 or 17, or will not be included in chargeable income under any of the provisions of this Act;

(g) subject to paragraph (m) of subsection (1) of section 21, income carried to any reserve fund or capitalised in any way;

(h) any bad debt, except any proved to the satisfaction of the Commissioner to be bad and to have been written off in the taxpayer’s books during the year;

(i) any expenditure or loss of capital nature;

(j) any expenditure on repairs, alterations and improvements, other than that actually incurred on the repair of property either occupied for the purposes of any trade, business, profession, employment or vocation or in respect of which income is receivable, including any expenditure so incurred on the treatment against attack by beetles and similar pests of any timber forming part of such property and sums expended for the repair of machinery, implements, utensils and other articles employed by the taxpayer for the purposes of his trade, profession, business, employment or vocation;

(k) alimony or maintenance.

Remuneration or gratuity to shareholder, director, relative, etc.

20.—(1) So much of any sum paid or credited by a company and being or purporting to be—
(a) remuneration for services rendered by any person being a shareholder or director of
the company or being a relative by blood, marriage or adoption of any such
shareholder or director or of the spouse of any such shareholder or director; or

(b) notwithstanding the provisions of sub-paragraph (ii) of paragraph (13) of section 17,
an allowance, gratuity or compensation in consequence of the retirement of that
person from any office or employment held by him in that company, or upon
termination of such office or employment,
as exceeds an amount which, in the opinion of the Commissioner, is a reasonable deduction to
be allowed as a sum incurred wholly and exclusively for the purposes of the trade or business
of the company shall not be allowable deduction, but nevertheless the excess shall be deemed
to be remuneration payable to the recipient for all other purposes of this Act.

(2) So much of any sum paid or credited by a person in trade or business, other than a
company, and being or purporting to be—

(a) remuneration for services rendered by any person being a relative by blood,
maintenance or adoption or any such person in business or of the spouse of any such
person; or

(b) notwithstanding the provisions of sub-paragraph (ii) of paragraph (13) of section 17,
an allowance, gratuity or compensation in consequence of the retirement of that
person from any office or employment held by him in the service of such person
in business or upon the termination of such office or employment,
as exceeds an amount which, in the opinion of the Commissioner, is a reasonable deduction to
be allowed as a sum incurred wholly and exclusively for the purposes of the business shall not
be an allowable deduction, and the excess shall, for all purposes of this Act, be deemed to
reduce by a like amount the sum paid or credited to the recipient.

(3) So much of any sum credited to a partner in a family partnership business purporting
to be the share of that person in the partnership profits as exceeds the actual sums drawn by
him from the business where any of the partners are related shall, for the purposes of this
subsection, be apportioned by the Commissioner between and be deemed to be the income of
the other partner or partners if, in the opinion of the Commissioner—

(a) any partner does not hold equal authority with other partners in the business; or

(b) the sum credited to any partner as his share of the partnership profits is not within
his full control, authority and disposal; or

(c) any partner contributes neither services nor capital to the partnership:

Provided that, where this subsection is invoked by the Commissioner, the actual sums drawn
from the business shall be deemed to be a sum not exceeding an amount which, in the opinion
of the Commissioner, a proprietor of the business would be expected to pay to an employee of
equivalent age and experience as the recipient.

(4) For the purpose of subsection (3)—

(a) “equal authority” includes authority exercised under a deed or written agreement
and de facto management and access to the business bank account;

(b) “family partnership” means a partnership in which more than 50 per cent of the
profits are payable to persons who are related by blood, marriage or adoption or
to the spouses of persons who are so related.
Expenses deductible

21.—(1) In determining total income, the following deductions shall be allowed:—

Depreciation

(a) an amount, in accordance with instructions issued by the Minister under this paragraph—

(i) for depreciation of capital expenditure incurred; or
(ii) for capital expenditure incurred on improvements to land use for agricultural or pastoral purposes;

Contribution to approved funds

(b) any sum paid by the employer for the year by way of the minimum statutory contribution in respect of an employee to an approved fund or to the Fiji National Provident Fund, to the extent that it is an ordinary contribution and is not recoverable from the employee, in which case it shall be allowed as an expense incurred in the year in which the same is paid;

(ii) any contribution referred to in sub-paragraph (i) that is not an ordinary contribution, to the extent that the Commissioner considers it to be allowable, in which case it shall, as the Commissioner in his discretion may direct, be treated either as an expense incurred in the year in which the same is paid or as an expense to be spread over a number of years;

(iii) notwithstanding sub-paragraphs (i) and (ii), the maximum amount to be allowed under this paragraph as an expense in any year in respect of any 1 employee shall be—

(a) where contribution is made to the Fiji National Provident Fund, the amount of the minimum statutory contribution to that Fund in that year;
(b) where contribution is made to an approved fund, an amount of $1,000:

Provided that, in the event of any 1 employee being employed by more than 1 employer, the amount to be allowed under this paragraph shall be such amount in respect of each such employee as the Commissioner may, in his discretion, determine, so that however, the total amount allowed to all the employers of such employee shall not exceed the amount specified in either (a) or (b) above, as the case may be;

Experimentation and research

(c) (i) such amount expended in the year on experimentation, scientific research or investigation, connected with the business of the taxpayer as the Commissioner may in his discretion allow;

Expenses of prospecting

(ii) such amount expended on prospecting for minerals in Fiji by a taxpayer who is a holder of a valid mining right, lease or tenement issued under the provisions of any enactment, for the time being in force relating to mining, whether or not prospecting for minerals is connected with any business of the taxpayer, as the Commissioner may, in his discretion, allow, and which has not already been recouped from the sale of any mining right, lease or tenement; and, for the purpose of this sub-paragraph, such allowed expenditure shall, as the Commissioner in his discretion may direct, be treated either as an expense incurred in the year when it was incurred or as an expense to be spread over a number of years;
Contributions to War Memorial and-Tuberculosis Fund

(d) any donation made by the taxpayer to the War Memorial Anti-Tuberculosis Fund in the year in which the donation is made;

Profits on sale of minerals, timber or gravel or rights therein

(e) in the case of profits derived from the sale of any minerals, timber or gravel or of a right in or right to work such minerals, timber or gravel, an amount equal to the cost of those minerals, timber or gravel or that right, save that, in respect of minerals, the deduction so allowed under this paragraph shall wholly exclude expenditure which may be claimed under paragraph (c) or under section 23;

Contributions to Fiji Visitors Bureau

(f) [one and one-half times the amount of any contribution] made by a taxpayer carrying on any business in Fiji to the Fiji Visitors Bureau in the year in which such contribution is made;

Election costs

(g) any amount expended in the income year by a taxpayer in being elected as a member or in contesting election for membership of the House of Representatives, to the extent that all or part of such amount has not been reimbursed or paid to the taxpayer by any other person;

(h) any deductions authorised under the Hotels Aid Act;

Fines, premiums for goodwill, payments for goodwill or expenditure incurred under an agreement to effect improvements

(i) on the grant of a lease for business purposes any fine, premium, payment for goodwill or other consideration paid or any expenditure incurred in pursuance of an obligation to effect improvements on land or to buildings whereby the right of use or occupation of that land or buildings is granted by any other person. The total amount paid shall be apportioned over the period of the lease unexpired at the date of payment, and the amount deducted for any year shall not exceed the amount apportioned to that year;

Export Incentives

(j) any deduction authorised under the Fifth Schedule in respect of Export Incentives;

Unit trusts

(k) in the case of a unit trust, a dividend declared, paid or credited by it, other than a dividend distributed out of profits of a capital nature or out of profits from direct investment. For the purposes of this paragraph, "direct investment" means profits or gains arising from any trade or business but not income derived from stocks, shares or other securities;

(l) …

(m) income carried to any reserve fund or capitalised in any way by any co-operative society registered under the Co-operative Societies Act;

(n) one half of any cash donation by a taxpayer to [the Cyclone Kina Appeal 1993 or to] the University of the South Pacific Endowment Fund, St. John’s Ambulance Brigade, Fiji Red Cross Society, Fiji Crippled Children’s Society, Fiji Blind Society and such similar academic and charitable institutions as may be approved by the Commissioner:
Provided that relief shall only be granted in terms of this paragraph in respect of donations which do not exceed, in aggregate, [$4,000] by an individual and [$10,000] by a company;

(o)…

(p) one and one half times the amount of any expenditure approved by the Economic Development Board of Fiji as incurred towards promotion of export of any product in respect of which a deduction from chargeable income or a rebate of the tax charged has been or may be allowed in accordance with the provisions of the Fifth Schedule;

(q) such amount as is deposited [by a company] in an account approved by the Commissioner specifically operated by any [financial institution licensed under the Banking Act 1995] for the purpose of providing a reserve for loss to property situated in Fiji caused by windstorm, tidal wave, landslide or a like catastrophe: Provided that—

(i) the deduction allowed shall not exceed in the case of [a commercial, industrial or agricultural building] 1.5 per cent [per annum] of the replacement cost, or in the case of residential [building] the lesser of $500 or 1.5 per cent [per annum] of the replacement cost, of the property in respect of which such account is operated;

(ii) any amount which is withdrawn [from such account] and not applied towards the repair of property damaged by windstorm, tidal wave, landslide or a like catastrophe, shall be assessed together with any interest thereon, in terms of paragraph (bb) of section 11.

[In this paragraph “building” includes outbuildings, walls, gates, fences and such other ancillary structures as may be approved by the Commissioner, which are on the same premises as, and used in connection with, a principal building.]

(r) (i) one and one-half times the amount of any wages or salaries paid between 1 January 1997 and [31st December 2001] by any person carrying on a trade or business in Fiji to a qualifying employee: Provided that—

(aa) any person wishing to claim this deduction shall first register with the Commissioner by providing such information as he may require;

(bb) the wages or salaries paid to the employee in respect of whom the deduction is claimed must be not less than 72 cents per hour;

(cc) the deduction under this paragraph shall not be available unless the Commissioner is satisfied such person has not terminated the employment of any employee in order to take advantage of this deduction:

(ii) For the purposes of this paragraph “qualifying employee” means an additional employee who commences employment in Fiji after 31 December 1996 and who has not previously been in full-time paid employment of any person;

(s) one and one half times the amount of any cash donation made by a taxpayer between 1st January 1998 and 31 December 2003 to the South Pacific Games Infrastructure Fund;

(t) any amount expended between 1st January 1998 and 31st December 2000 on either the modification and testing of hardware or software in making a computer year
2000 compliant, or the acquisition of hardware or software to make a computer year 2000 compliant:

Provided that any amount to which this paragraph applies must be deducted from total income in 3 equal parts in the year of expenditure and the 2 subsequent years of income;

(2) Notwithstanding anything to the contrary in this Act in respect of a dividend derived by an individual from a resident company, there shall be allowed in determining the total income of such individual a deduction of an amount, representing a percentage of such dividend, calculated in accordance with the following scale:

<table>
<thead>
<tr>
<th>Total Income (including dividends) of the taxpayer for the year</th>
<th>Percentage of such dividends to be deducted</th>
</tr>
</thead>
<tbody>
<tr>
<td>would not exceed $10,000</td>
<td>100 per cent</td>
</tr>
<tr>
<td>would exceed $10,000 but would not exceed $12,000</td>
<td>90 per cent</td>
</tr>
<tr>
<td>would exceed $12,000 but would not exceed $15,000</td>
<td>70 per cent</td>
</tr>
<tr>
<td>would exceed $15,000</td>
<td>60 per cent</td>
</tr>
</tbody>
</table>

(3) For the purposes of subsection (2), any amount to which paragraph (h) of the proviso to section 11 applies shall be deemed to be dividend.

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1 Substituted by §8 Act 10/1998 WEF 1st January 1998 – previously read: "(a) such amount as the Commissioner may consider reasonable in respect of—

(ii) depreciation on capital expenditure incurred; or

Provided that—

(aa) in computing what deduction, if any, shall be granted under this paragraph in respect of any asset which was acquired as a result of a transaction other than an arms-length transaction, such depreciation shall be computed as if the sale price realised by the vendor or disponor was the amount of the tax written-down value of the asset computed by deducting from its cost price to the vendor or disponor the initial and depreciation allowances which have been or would have been granted in respect thereof;

Disposal, loss or destruction of an asset

(bb) where any property of a taxpayer in respect of which an initial or depreciation allowance has been allowed or is allowable under this Act is disposed of, lost or destroyed at any time in the year of income, the depreciated value of the property at that time, less the amount of any consideration receivable in respect of the disposal, loss or destruction shall, subject to the provisions of paragraph (cc) be an allowable deduction;

(cc) where any property referred to in paragraph (bb) is disposed of by a transaction other than an arms-length transaction, no deduction shall be given, the sale price being treated as the value as written down by initial and depreciation allowances;

(dd) for the purpose of this paragraph, the Commissioner may, where any property referred to in this proviso is sold together with other property at an inclusive price, determine the amount of the consideration attributable to such property;


3 Substituted by §8(a) Act 21/1980 WEF 1st January 1980 – previously read: "(b) (i) any sum paid by the employer for the year by way of contribution in respect of an employee to an approved fund or to the Fiji National Provident Fund, to the extent that it is an ordinary contribution and is not recoverable from the employee in which case it shall be allowed as an expense incurred in the year in which the same is paid;

(ii) any contribution referred to in sub-paragraph (i) that is not an ordinary contribution, to the extent that the Commissioner considers it to be allowable, in which case it shall, as the Commissioner in
his discretion may direct, be treated either as an expense incurred in the year in which the same is paid or as an expense to be spread over a number of years;

(iii) notwithstanding the provisions of sub-paragraphs (i) and (ii) of this paragraph, the maximum amount to be allowed under this paragraph as an expense in any year in respect of any one employee shall be $600 or, in the event of any one employee being employed by more than one employer, such amount in respect of each such employee as the Commissioner may in his discretion determine, so that however the total amount allowed to all the employers of such employee shall not exceed $600;”

4 Substituted for “any contribution” by §7(a) Act 21/1982 WEF 1st January 1983
5 Cap. 215
6 Paragraph (k) inserted by §5 Act 23/1979 WEF 1st January 1978
7 Paragraph (l) inserted by §8(b) Act 21/1980 WEF 1st January 1980; deleted by §9 Decree 30/1992 WEF 1st July 1992
8 Paragraph (m) inserted by §8(b) Act 21/1980 WEF 1st January 1980
10 Paragraph (n) inserted by §8 Act 3/1982 WEF 1st January 1982
11 Words inserted (by substitution) by §2 Act 3/1993 WEF 1st January 1993
13 Substituted for “$4,000” by §8 Act 10/1997 WEF 1st January 1997; “$4,000” substituted for “$1,000” by §2 Act 3/1993 WEF 1st January 1993
14 Inserted by §7(b) Act 21/1982 WEF 1st January 1983; repealed by §9(3) Decree 30/1992 WEF 1st July 1992 – previously read:

“(o) expenditure incurred during the income year in the acquisition of a solar appliance, manufactured or assembled in Fiji, and used for heating, lighting, air-conditioning or cooking:

Provided that—

(i) any deduction shall not exceed 20 per cent of the cost of acquisition of the appliance or the sum of $200, whichever is the less; and

(ii) the taxpayer shall satisfy the Commissioner that he intends to retain and use the appliance for a minimum period of 2 years from the date of acquisition;”

15 Inserted by §6 Act 17/1984 WEF 21st December 1984
16 Currently titled Fiji Trade and Investment Board
17 Inserted by §8 Act 23/1985 WEF 1st January 1986
18 Inserted by §9(4) Decree 30/1992 WEF 1st July 1992
19 Act 1/1995
20 Substituted for “bank” by §5(a) Act 3/1999 WEF 1st January 1999
21 Substituted for “business property” by §7(1) Act 25/1986 WEF 1st January 1986
23 Substituted for “property” by §7(1) Act 25/1986 WEF 1st January 1986
25 Words “referred to in the preceding paragraph” deleted (by substitution) by §7(1) Act 25/1986 WEF 1st January 1986
26 Inserted (by substitution) by §7(1) Act 25/1986 WEF 1st January 1986
27 Inserted (by substitution) by §7(1) Act 25/1986 WEF 1st January 1986
28 Inserted by §8(c) Act 10/1997 WEF 1st January 1997
30 Inserted by §8(c) Act 10/1998 WEF 1st January 1998
31 Inserted by §5(c) Act 3/1999 WEF 1st January 1999
32 Substituted by §6 Act 18/1995 WEF 1st January 1994 – previously read:

Where, but for the provisions of this subsection, the total income (including dividends) of the taxpayer for the year— Percentage of such dividends to Percentage of such dividends to be be deducted deducted

would not exceed $10,000 100 percent
would exceed $10,000 but would not exceed $12,000 80 percent
would exceed $12,000 but would not exceed $15,000 60 percent
would exceed $15,000 50 percent.

Where, but for the provisions of this subsection, the total income (including dividends) of the taxpayer for the year— Percentage of such Percentage of such dividends to be deducted

would not exceed $7,200 100 percent
would exceed $7,200 but would not exceed $7,600 90 percent
would exceed $7,600 but would not exceed $8,000 80 percent
would exceed $8,000 but would not exceed $8,400 70 percent
would exceed $8,400 but would not exceed $8,800 60 percent
would exceed $8,800 but would not exceed $9,200
would exceed $9,200 but would not exceed $9,600
would exceed $9,600

50 percent
40 percent
33 1/3 percent.

Substituted by §6 Act 7/1981 WEF 1st January 1981 – previously read:

Where, but for the provisions of this subsection, the total income (including dividends) of the taxpayer for the year—

<table>
<thead>
<tr>
<th>Percentage of such dividends to be deducted</th>
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</tr>
</thead>
<tbody>
<tr>
<td>would not exceed $3,000</td>
<td>100%</td>
</tr>
<tr>
<td>would exceed $3,000 but would not exceed $3,400</td>
<td>90%</td>
</tr>
<tr>
<td>would exceed $3,400 but would not exceed $3,800</td>
<td>80%</td>
</tr>
<tr>
<td>would exceed $3,800 but would not exceed $4,200</td>
<td>70%</td>
</tr>
<tr>
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<td>60%</td>
</tr>
<tr>
<td>would exceed $4,600 but would not exceed $5,000</td>
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</tr>
<tr>
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<td>40%</td>
</tr>
<tr>
<td>would exceed $5,400</td>
<td>33 1/3%</td>
</tr>
</tbody>
</table>

33 Inserted by §8(c) Act 21/1980 WEF 1st January 1980

Losses

22.—(l) Any loss incurred in the year in any trade, business, profession or vocation carried on by any person, either solely or in partnership, shall—

(a) be set off against his income from other sources for the same year:

Provided that no relief shall be allowed under the provisions of this paragraph in respect of any loss suffered from any transaction of trade, business, profession or vocation if a profit derived from such transaction would not have been included in chargeable income; and

(b) to the extent to which it is not allowed under sub-paragraph (a), be carried forward and, subject as is hereinafter provided, be set off against what would otherwise have been his total income for the next 6 years in succession:

Provided that—

(i) the amount of any such loss allowed due to be set off in computing the total income of any year shall not be set off in computing the total income of any other year;

(ii) the amount of such set-off allowed in any year in respect of any loss incurred in respect of an accounting period ended not later than 31 December 1973 shall not exceed one-half of the amount which, but for the set-off, would be the total income of that year;

(iii) in the case of any person who commenced an agricultural or pastoral pursuit on or after 1 January 1961, this section shall apply with respect to losses incurred in such agricultural or pastoral pursuit with no restriction on the number of years for which the losses may be carried forward; such set-off to be made in the first subsequent year, and so far as, it cannot be made, then in the next year and so on;

(iv) no relief shall be allowed under the provisions of this paragraph in respect of any loss suffered from any transaction of trade, business, profession or vocation, if a profit derived from such transaction would not have been included in chargeable income;

(v) a loss in respect of any trade, business, profession or vocation shall cease to be available for relief in respect of the years following the year in which such trade, business, profession or vocation is sold, ceases, or its nature changes substantially:
Provided that the Minister, where he considers it to be to the economic benefit of Fiji, may determine that any such loss may be carried forward and be available for relief subject to the other provisions of this section.

(2) For the purpose of this section, any loss incurred by a taxpayer shall be ascertained in accordance with the provisions of this Act for the calculation of total income.

(3) Notwithstanding anything in the foregoing provisions of this section, if any company claims to carry forward to any income year any loss incurred by it in any former income year, the claim shall not be allowed unless the Commissioner is satisfied that the shareholders of the company on the last day of the first-mentioned income year were substantially the same as the shareholders of the company on the last day of the income year in which the loss was incurred. For the purposes of this subsection and subsection (4)—

(i) the shareholders of a company at any date shall be deemed not to be substantially the same as the shareholders on any other date unless, on both those dates, not less than 51 per cent of the voting power in and the right to receive dividends from the company was held by or on behalf of the same persons, nor unless, on both those dates, not less than 51 per cent of the nominal value of the allotted shares in the company were held by or on behalf of the same persons;

(ii) shares in a company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company and shares held by or on behalf of the trustee of the estate of a deceased shareholder, or by or on behalf of the persons entitled to those shares as beneficiaries in the estate of a deceased shareholder, shall be deemed to be held by that deceased shareholder.

(4) A company may claim exemption from the provisions of subsection (3) on the grounds that its operations are for the economic development of Fiji, if the trade or business carried on at the end of the income year is, in the opinion of the Commissioner, likely to be continued, in which case, the Commissioner shall refer the claim to the Minister who may determine that the provisions of subsection (3) shall not apply to that company. Any such determination shall cease to have effect and shall be deemed never to have been made in the event of the shareholders of the company ceasing to be substantially the same.

(5) Subject to the other provisions of this section, in the case of a person entitled to an allowance or any other relief or deduction under the Hotels Aid Act1, the period of 6 years referred to in paragraph (b) of subsection (1) shall commence from the end of the year in which the last day of the accounting period the income tax profits which are subject to the final deduction falls:

Provided that such period shall not extend beyond 5 years after the year in which the hotel commenced trading and any losses incurred up to such date shall be regarded as having been incurred in the final accounting period.

1 Ordinance 35/1964 – Cap. 215

Special provision for mining expenditure

23.—(1) Notwithstanding the other provisions of subsection (1) of [section 21]1, any person engaged in mining who incurs in Fiji expenditure to which this section refers may, in each of any 5 of the 8 years immediately following the year in which such expenditure was incurred,
or, if he prefers, out of the 8 years consisting of the year in which such expenditure was incurred and the 7 succeeding years, set off against his total income one-fifth of the amount of such expenditure:

Provided that a deduction under paragraph (a) of subsection (1) of section 21 shall not be allowed in addition to expenditure allowed under this section.

(2) The expenditure to which this section refers is—

(a) capital expenditure, not claimed under paragraph (c) of subsection (1) of section 21, incurred in the development of mines and the extraction, treatment, refinement and sale of minerals therefrom; and

(b) expenditure incurred in the acquisition of any mining lease or tenement:

Provided that—

(i) where the Commissioner is of the opinion that the sum expended, whether in cash or by means of an issue of shares or otherwise, is excessive, having regard to the lease or tenement acquired and to the other circumstances of the case, he may make such adjustment with regard to such sum as, in his opinion, is just and reasonable;

(ii) this paragraph shall not apply in respect of a sale, transfer or assignment of any mining lease or tenement, if—

(aa) any party or parties of the one part of the sale, transfer or assignment has or have the power (whether under the terms of the transaction or otherwise) to control directly or indirectly the entry into the transaction by, or the activities in connection with the mining rights of, a party of the other part; or

(bb) any person or persons has or have the power (whether under the terms of the transaction or otherwise) to control directly or indirectly the entry into the transaction by, or the activities in connection with the mining rights of, a party of the one part and a party of the other part to the sale, transfer or assignment. For the purposes of this paragraph of, the proviso, a person shall be deemed to be in control of his spouse and of any relative of his, whether by blood, marriage or adoption, and in the case of a company the provisions of subsections (2), (4), (5) and (6) of section 12 shall apply for the purpose of determining who is in control;

(iii) such expenditure as is excluded by sub-paragraph (bb) shall not be claimable under paragraph (e) of section 21.

(3) Expenditure of the nature referred to in subsection (2) which has been incurred by any company at any time prior to the termination of the fiscal year 1950-51 shall, to the extent to which it appears in the annual accounts of that year as not having been written off, be deemed for the purposes of subsection (1) to have been incurred in the fiscal year 1951-52.

(4) The Minister may, in relation to capital expenditure incurred in the development of a new mine, substitute such other fraction for the fraction of one-fifth set out in subsection (1) and make corresponding provision for the period during which such expenditure may be set aside. An order made under this subsection may be general or restricted to a particular person or persons. During the currency of such order, subsection (1) shall be read in relation to the expenditure referred to in this subsection and to the persons affected by the order as if varied in
accordance with the provisions of the order. For the purposes of this subsection, “a new mine” means a mine which was not in production on 1 January 1952.

(5) Where, in the case of any mining company, the Minister has directed that the provisions of paragraph (a) of subsection (2) of section 16 shall apply to such company for any period, then, in calculating the income of that company during such period, there shall be deducted, at the option of the company, either the set off under the provisions of this section or the deduction provided for in paragraphs (a) and (c) of subsection (1) of section 21.

1 Inserted by §8 Act 10/1975 WEF 1st January 1975
2 Reference should read “paragraph (e) of subsection (1) of section 21”

PART V–ASCERTAINMENT OF CHARGEABLE INCOME

1 See Appendix B for a summary of the personal allowances and deductions available to individuals and employees under this Part, particularly §§24-29.

(Chargeable income of person other than a company, etc.)

24.—(1) Subject to the provisions of this section, “chargeable income” for any year in respect of a person other than a company [the estate of a deceased person, a trust or settlement or a non-resident], shall, for the purpose of this Act, be the total income of that person for that year whether accruing in or derived from Fiji or elsewhere, subject to the deductions specified in [sections 25, 26]3.

(2) Notwithstanding the provisions of section 31 and of subsection (1) …4, where a person resident in Fiji solely or mainly for the purposes of engaging in any employment [has not resided in Fiji for the whole year]5, he shall, if he has resided in Fiji only for part or parts of that year, [be allowed, in calculating his chargeable income, only such proportion of—]6

[(a) the deductions specified in section 25;
(b) the deductions specified in paragraphs (a), (b), (c) and (f) of section 26(1); and
(c) any contributions allowable under paragraphs (d) and (e) of section 26(1)],7

as the total period of his residence in Fiji during that year bears to the full income year.

(3) For the purpose of subsection (2)—

(a) the total period of a person’s residence in Fiji shall be deemed to be the whole of any period during which he actually resides in Fiji or in respect of which he derives emoluments from his employment in Fiji whichever is more favourable to the taxpayer;

(b) “employment” shall have the same meaning as in section 79[;]8

[(c) the aggregate deduction allowable under paragraphs (a), (b), (c), (d), (e) and (f) of section 26(1), before apportionment under subsection (2), shall be restricted to $1,500].9

1 Heading substituted by §9(a) Act 10/1975 WEF 1st January 1975 – previously read: “Chargeable income of person other than a company or a non-resident”
2 Inserted by §9(b) Act 10/1975 WEF 1st January 1975
3 Substituted for “sections 25, 26, 27, 29 and 30 of this Act” by §2(a) Act 35/1999 WEF 1st January 2000
4 Words “of this Act” deleted by §6(a) WEF 1st January 1977
5 Substituted for “derives in any year from such employment more than half of his total income for the year” by §6(b) WEF 1st January 1977
6 Substituted for “be allowed—” by §2(b)(i) Act 35/1999 WEF 1st January 2000
7 Substituted by §2(b)(ii) Act 35/1999 WEF 1st January 2000; previously read –
   “(i) in calculating his chargeable income, only such proportion of the deductions specified in section 25,
   paragraphs (a), (b), (c) and (f) of subsection (1) of section 26, and sections 27, 29 and 30 together
   with any contributions allowable under paragraphs (d) and (e) of subsection (1) of section 26. [The
   aggregate deduction allowable under paragraphs (a), (b), (c), (d), (e) and (f) of subsection (1) of
   section 26, before apportionment as specified in this paragraph, shall be restricted to one-sixth of the
   taxpayer’s total income or $1,000, whichever is the less;] and
   (ii) such proportion of the normal tax rebate,”
   Words inserted by §6(c) WEF 1st January 1977
8 Substituted for a full-stop by §2(c) Act 35/1999 WEF 1st January 2000
9 Paragraph (c) inserted by §2(c) Act 35/1999 WEF 1st January 2000

Allowances.

Allowances for wife

25.—(1) (a) In respect of a wife living with or wholly maintained by the taxpayer, an
allowance of [$1,200]¹ shall be deducted:

[Provided that the amount of this allowance shall be reduced by $1 for
every dollar of a wife’s total income which is not chargeable with tax, other
than that portion of a wife’s income from interest, dividends and farming
which is specifically exempted from tax under the provisions of this Act;]²

[(b) in the case of a taxpayer who is widowed, an allowance of $1,000 must be
deducted;]³

(c) …⁴

(d) …⁵

Allowance for Legally Separated Spouses, etc.

(1)(A)⁶ Notwithstanding the provisions of proviso (b) of subsection (1) of section 43, in the
case of a taxpayer who is legally separated from his or her spouse under an order of a court of
competent jurisdiction and who has been granted legal control and custody of a dependent child
or children an allowance of [$1,200]⁷ shall be deducted:

Provided that—

(a) in the case of legally separated spouses who both have legal control and custody of a
dependent child or children, the allowance of [$1,200]⁸ shall be allocated in equal
proportion to each spouse;

(b) the amount of this allowance shall be reduced by one dollar for every dollar of the
spouse’s total income which is not chargeable with tax other than that portion of the
spouse’s income from interest or dividend which is specifically exempted from tax
under the provisions of this Act.

(1)(B)⁹ In no case shall the allowance due under paragraph 1(a) of section 25 and
subsection 25(1)(A) exceed [$1,200]¹⁰ in any one year.

Allowance for children

(2)¹¹ In respect of each dependent child of the taxpayer, [the allowance for each such child
shall be—]¹²

[(a) $500 for the first dependent child;]¹³
[(b) $500 for the second dependent child; and]¹⁴
[(c) $300 for the third and any subsequent dependent child:]¹⁵
Provided that—

(i) the total allowance to a taxpayer under this subsection shall be [[$1,900]17];

(ii) only 1 allowance may be granted in respect of the same dependent child. Where more than 1 taxpayer would, but for this proviso, be entitled to an allowance in respect of the same dependent child, such allowance shall be apportioned between them in such proportions as they agree, or in default of agreement, equally. For the purposes of this paragraph, maintenance which is payable under an order of a court of competent jurisdiction and which has been allowed or would qualify as a deduction in arriving at total income, shall not be regarded as a contribution to a child’s support.

Allowance for brother or sister

(3) … 19

Allowance for other dependants

(4) … 20
"(c) for the third dependent child, [$200]; and"

16 Inserted by §9(a) Act 23/1985 WEF 1st January 1986; deleted [by substitution] by §10(2) Decree 30/1992 WEF 1st July 1992 – previously read:

“(d) for the fourth and any subsequent dependent child, $130;”


18 Words “any enforceable legal agreement or” deleted [by substitution] by §10(2) Decree 30/1992 WEF 1st July 1992

19 Repealed by §10(2) Decree 30/1992 WEF 1st July 1992 – previously read:

“(3) In respect of each brother or sister of the taxpayer or his wife who is dependent on and wholly maintained by the taxpayer, an allowance of $130, shall be deducted:
  Provided that—
  (a) a deduction shall not be allowed in respect of a brother or sister who is over the age of 18 years, unless such brother or sister is wholly dependent on the taxpayer for support—
    (i) on account of physical or mental incapacity; or
    (ii) being under 27 years of age, is either receiving full-time instruction at a university, college, school or other educational establishment or is serving under articles or indentures with a view to qualifying in a trade or profession;
  (b) no deduction under this subsection shall be allowed in respect of any dependant who has himself a world total income exceeding $130, but the fact that a dependant has himself an income shall not, if such income is not more than $130, in itself prevent his being wholly maintained by the taxpayer;
  (c) the total deduction allowed by this subsection and subsection (4) shall not be in respect of more than 2 dependants.”

20 Repealed by §10(2) Decree 30/1992 WEF 1st July 1992 – previously read:

“(4) Subject to the provisions of subsection (3), in respect of each parent, grandparent, or other blood relative of the taxpayer or of his wife, who is dependent on and wholly maintained by the taxpayer, an allowance of $100 shall be deducted:
  Provided that—
  (a) no deduction shall be allowed in respect of any dependant who has himself a world total income exceeding $100, but the fact that a dependant has himself an income shall not, if such income is not more than $100, in itself prevent his being wholly maintained by the taxpayer;
  (b) the total deduction allowed by this subsection and subsection (3) shall not be in respect of more than 2 dependants;
  (c) a deduction shall not be allowed in respect of a child unless such child is under the custody and control of the taxpayer;
  (d) a deduction shall not be allowed in respect of a child who is over the age of 18 years unless such child is wholly dependent on the taxpayer for support—
    (i) on account of physical or mental incapacity; or
    (ii) being under 27 years of age, is either receiving full-time instruction at a university, college, school or other educational establishment or is serving under articles or indentures with a view to qualifying in a trade or profession.”

Deductible amounts

26.—(1) The following amounts shall be deducted in calculating chargeable income:—

Life insurance

(a) in respect of policies against sickness of, or against personal injury or accident to [the taxpayer, his or her spouse] or dependent child (up to the maximum of 5 dependent children) taken out prior to 30 November 1973, any amounts paid by the taxpayer in that year as premiums or sums for insurance to any insurance company;

(b) any amounts paid by the taxpayer in that year as premiums or sums for insurance on the life of [the taxpayer, his or her spouse] or dependent child (up to a maximum of 5 children) on policies taken out prior to 30 November 1973, where a capital sum is not payable at death and the policy is for a term of less than 10 years;

(c) any amounts paid by the taxpayer in that year as premiums or sums for insurance on the life of [the taxpayer, his or her spouse] or dependent child (up to a maximum of 5 children) where the policy secures a capital sum payable at death and is either
a whole life policy or is for a term of not less than 10 years. The amount allowable shall not exceed 7 per cent of the actual capital sum assured and, in calculating such capital sum, no account shall be taken of any sum payable on the happening of any other contingency or of the value of any premiums to be returned or of any benefit by way of bonuses or otherwise which is to be or may be received either before or after death, either by the person paying the premium or by any other person, and which is not the sum actually assured. In the event of the cessation of a policy for any reason before the expiry of 10 years, the Commissioner may, if he is not satisfied with the reasons for cancellation, disallow all premiums (if any) previously allowed in respect of such policy;

Contribution to approved funds

(d) the annual amount of any contributions made by the taxpayer as an employee to an approved fund;

(e) the annual amount of any sums recovered from the salary or wages of a taxpayer in respect of contributions on account of such taxpayer to the Fiji National Provident Fund under the provisions of the Fiji National Provident Fund Act by his employer;

(f) the annual amount of any voluntary contributions made to the Fiji National Provident Fund by any taxpayer, not being an employee for the purposes of the Fiji National Provident Fund Act, but not exceeding [$480] per annum;

(g) the annual amount of any contributions made by the taxpayer to the Widows and Orphans Pensions Scheme or the Government Employees Provident Fund.

Restrictions of relief

[(2) The total deduction under subsection (1) shall not exceed—

(a) in the case of an unmarried taxpayer – an aggregate amount of $1,500; or

(b) in the case of a married man whose wife is in receipt of income exceeding $1,200 but the husband and the wife have not jointly elected to be assessed separately under section 43 – an aggregate amount of $1,500 in respect of the husband and an aggregate amount of $1,500 in respect of the wife.]

Professional dues and journals

Trade union subscriptions

Equipment purchased for physically incapacitated dependent relatives

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1 Substituted for “himself, his wife” by §4(a) Act 35/1999 WEF 1st January 2000
2 See Note 1
3 See Note 1
4 Cap. 219
5 See Note 4
6 Substituted for “$240” by §9 Act 21/1982 WEF 1st January 1983
7 Subsection (2) substituted by §4(b) Act 35/1999 WEF 1st January 2000; previously read –

“(2) Notwithstanding the provisions of subsection (1), the total deduction under that subsection shall not exceed in aggregate [$1,500].”
Figure “$1,500” substituted by §7 Act 3/1999 WEF 1st January 1999 for “one-sixth of the taxpayer’s total income or $1,000, whichever is the less. For the purpose of this subsection, only dividends which are included in a taxpayer’s chargeable income shall be included in his total income. In the case of a designated officer under the provisions of the Overseas Service (Fiji) Agreement, 1961, as amended from time to time, the amount of an inducement allowance, education allowance or the proportion of the gratuity payable which is not included in total income under section 11 shall be included in his total income for the purpose of this section.”


“3 Notwithstanding the other provisions of this section, the amounts paid by a taxpayer during the income year out of any emolument income received by him from any office or employment in respect of the annual professional membership dues the payment of which was necessary to maintain a professional status in connection with his office or employment, or in respect of professional journals which are regarded by the Commissioner as necessary for the efficient performance of the duties of his office or employment, but not exceeding [[$100], shall be deducted in calculating chargeable income.”


“(3A) Notwithstanding the other provisions of this Act, an amount not exceeding the aggregate of the amounts paid by a taxpayer during the income year in order to maintain membership of a registered trade union representing employees of a class in which the taxpayer is included or $20, whichever is the less, shall be deducted in calculating chargeable income.”


“4 Notwithstanding the other provisions of this Act, the amounts paid by a taxpayer during the income year in respect of special equipment for a dependant for whom an allowance may be deducted under section 25 and who is physically incapacitated, shall be deducted in calculating chargeable income.

In this subsection, “physically incapacitated” means incapacitated to such an extent that the continued survival of the person in relation to whom the term is used is impossible, or his free movement or free movement of any of his limbs is impractical, without the aid of an artificial contrivance or device, and “special equipment” means the artificial contrivance or device employed in providing such aid.”

Age allowance

27. …

Repealed by §12 Decree 30/1992 WEF 1st July 1992; “55 years” substituted for “65 years” by §10(a) Act 21/1982 WEF 1st January 1983; “$750” substituted for “$400” by §11(a) Act 10/1975 WEF 1st January 1974; paragraph (a) substituted by §10(b) Act 21/1982 WEF 1st January 1983; paragraph (a) previously amended (by insertion) by §11(b) Act 10/1975 WEF 1st January 1974; paragraph (b) amended (by insertion) by §11(c) Act 10/1975 WEF 1st January 1974– previously read:

Provided that—

[(a) the amount of an age allowance shall be reduced by the excess of the world total income of the person entitled to such allowance over the aggregate of all the allowances to which he is entitled under this Part, including the age allowance and a further $1,750, except in the case of a widow, in which case the aggregate of the widow’s and age allowances shall be reduced by the excess of her world total income over $3,150 or the aggregate of all the allowances to which she is entitled under this Part including the age allowance and a further $1,750, whichever is the greater;]

(b) in the case of a non-resident, the proviso to subsection (1) of section 31 shall also apply;

(c) not more than 1 age allowance shall be allowable in respect of a married man receiving an allowance under the provisions of section 25 or 31 in respect of his wife nor shall more than 1 age allowance be allowable in respect of a husband and wife who elect to be assessed separately under the provisions of section 43.

Maximum number of dependants

28.—(1) Where the taxpayer receives an allowance under the provisions of section 25 in respect of a wife, the number of other dependants in respect of whom allowances may be granted under the provisions of that section shall not exceed 5.

(2) Where the taxpayer does not receive an allowance under section 25 in respect of a wife, the number of other dependants in respect of whom allowances may granted under the
provisions of that section of this Act shall, subject to the provisions of paragraph (a) of subsection (2) of section 25, not exceed 6.

(3) Where a taxpayer is entitled to the [maximum total allowance] under the provisions of subsection (2) of section 25 and may also be entitled to an allowance under section 29 in respect of education allowance, he shall indicate in respect of which children he wishes to claim an allowance under that subsection and section.


2 Repealed by §13 Decree 30/1992 WEF 1st July 1992

**Education allowance**

29. …


“(1) An allowance known as an “education allowance” shall be granted in respect of the education of a dependent child, up to a maximum of 5 children, in the case of a person receiving an allowance in respect of a brother or sister under the provisions of subsection (3) of section 25, an allowance in respect of the education of such brother or sister, and in the case of a person receiving an allowance in respect of a dependent blood relative under the provisions of subsection (4) of that section; in all cases, such allowances shall consist of any sum paid for tuition fees or boarding fees in respect of a dependent child, brother or sister, or dependent blood relative receiving full-time instruction at any university, college, school or other educational establishment, and any sum paid for travelling expenses to enable such a child, brother or sister, or dependent blood relative to go to and return from such university, college, school or other educational establishment at the beginning and end of a term.

(2) An education allowance shall be—

(i) in the case of a child, brother or sister or dependent blood relative attending a university, college, school or other educational establishment in Fiji, $100;

(ii) in the case of a child, brother or sister, or dependent blood relative attending a university, college, school or other educational establishment outside Fiji, $400:

Provided that—

[a] where the actual expenditure approved by the Commissioner exceeds $100 or $400, as the case may be, the additional expenditure may be allowed but so that the total allowance for any child, brother or sister or dependent blood relative shall not exceed $800;

[b] where a grant or scholarship is received, other than a cost sharing scholarship approved by the Ministry responsible for education on or before 31 December 1978, the total allowable deduction shall be reduced by such amount;

[c] no allowance shall be granted under this section in respect of any child, if the [maximum total allowance] has been granted under subsection (2) of section 25 as qualified by section 28 which does not include an allowance for such child;

[d] for the purpose of this section, subject to the provisions of paragraph (e), a child shall not cease to be a “dependent child” only by reason of his or her world total income exceeding $200, a dependent blood relative shall not cease to be a “dependent blood relative” only by reason of his or her world total income exceeding $100 and a dependent brother or sister shall not cease to be a “dependent brother or sister” only by reason of his or her world total income exceeding $130. In each such case, the amount allowable under this section shall however be reduced by $1 for every dollar by which the child’s, the dependent blood relative’s or the dependent brother or sister’s world total income exceeds $400;

[e] no allowance shall be granted under this section, except in any case falling within proviso (f), in the case of a child, brother, sister or dependent blood relative who attends a school, college, university or other educational establishment from his home;

[f] notwithstanding paragraph (e), if a dependent child, brother, sister or dependent blood relative attends from his home the University of the South Pacific or any other tertiary establishment approved by the Ministry responsible for education on or before 31 December 1978, an allowance shall be granted only in respect of any tuition fees paid]
(g) no allowance shall be granted under this section in respect of any child, brother or sister or
dependent blood relative attending primary school, secondary school or similar educational
establishment outside Fiji up to and including sixth form level.]

Passages

30. Any expenditure incurred before 1 January 1974 by any person on the provision of
passages for himself or for his wife or dependent children for the purposes of leave outside Fiji
shall be deducted in calculating the chargeable income of that person:

Provided that—

(a) where the whole or any part of the cost of any of such passages is borne by the
employer of any person, no deduction shall be allowed to that person in respect of
the amount so borne;

(b) if the whole or any part of the cost of any of such passages is borne by the employer
of any person at intervals of not more than 3 years, no deduction shall be allowed
for any expenditure incurred by that person, during any intervening period, on the
provision of passages for the purposes of leave outside Fiji for any of the persons in
respect of whom the employer bears the whole or part of the cost as aforesaid;

(c) the cost of the passages to be taken into account shall be the cost of return fares by
direct route between Fiji and the country of destination up to a maximum of 3 adult
air fares not more often than once every 3 years but so that the cost of the passages
shall not exceed the normal air fare rate for each passenger who travels;

(d) no deduction shall be allowed for passages paid by any person unless that person was
resident in Fiji during the period of 24 months immediately preceding the
commencement of the journey in respect of which the deduction is claimed;

(e) the deduction shall be allowed in respect of the income year in which travel overseas
is commenced and in each of the 2 succeeding income years and shall be equal to
one-third of the cost of the passages as calculated in accordance with the provisions
of this section, or an amount equal to 10 per cent of what would otherwise be the
chargeable income of such person but for the making of this deduction, whichever
is the less.

Chargeable income of non-resident individual

31.—(1) For the purposes of this Act, “chargeable income”, for any year of a non-resident
individual, means that part of his total income for the year accruing in or derived from Fiji,
subject to the following deductions:—

(a) in respect of a wife living with or wholly maintained by the non-resident, an
allowance of [$1,200]

(b) in respect of a non-resident who is widowed, an allowance of $1,000.

Non-resident pensioners

(2) In the case of a non-resident in receipt of a pension derived from Fiji which is liable to
tax in Fiji whose other income arising in and liable to normal tax in Fiji additional to his
pension does not exceed $100, the provisions of subsection (1) shall not apply, and the tax due
from such non-resident pensioner shall be computed as follows:—

(a) one-half of the allowance for a wife shall be allowed to a married man and shall be
deducted in arriving at chargeable income; or
(b) a sum equal to one-half of the allowance referred to in paragraph (b) of subsection (1) shall be granted to a widow or widower ... and shall be deducted in arriving at chargeable income; and

(c) the full amount of the general rebate of $30 as provided in section 101 shall be deducted from the tax chargeable:

Provided that a non-resident pensioner may, within 60 days after receiving notification of the amount due, furnish to the Commissioner details of his total income from all sources and elect that the provisions of subsection (1) shall apply in calculating his chargeable income.

1 Substituted for “$1,000” by §5 Act 35/1999 WEF 1st January 2000; “$1,000” substituted for “$750” by §8(a) Act 3/1999 WEF 1st January 1999
2 Paragraph (b) substituted by §8(b) Act 3/1999 WEF 1st January 1999 – previously read:
   “(b) in respect of a non-resident who is—
   (i) a widower with a dependent child or children, an allowance of $750;
   (ii) a widow with a dependent child or children, an allowance of $950;
   (iii) a widow without a dependent child or children, an allowance of $600:
   [Provided that, where she is not also entitled to the age allowance, the amount of this allowance shall be reduced by the excess of the world total income of the widow over $2,000.]"

Provided that, where the income of the non-resident derived from or accruing in Fiji is less than the sum of his world total income derived from or accruing in Fiji and elsewhere, the non-resident shall be allowed to deduct only such proportion of the allowances as equals the proportion which his income derived from or accruing in Fiji bears to his world total income derived from or accruing in Fiji and elsewhere.

Proviso to sub-paragraph (iii) substituted by §8 Act 10/1977 WEF 1st January 1977; figure “$2,000” substituted for “$1,200” by §11 Act 21/1982 WEF 1st January 1983 – previously read:
   “Provided that the amount of such allowance shall be reduced by the excess of the world total income of the widow over $2,000.”

3 Words “with a dependent child or children” deleted by §8(c) Act 3/1999 WEF 1st January 1999
4 §101 repealed by §14 Decree 30/1992 WEF 1st July 1992

Chargeable income of company

32. For the purposes of this Act, the chargeable income of a company shall be—

   (a) in respect of a company other than a non-resident company, the total income of the company for that year, whether accruing in or derived from Fiji or elsewhere;

   (b) in respect of a non-resident company, the total income of the company for that year accruing in or derived from Fiji;

   (c) in respect of a non-resident shipping company doing business in Fiji, the total amount payable to the company in respect of all outgoing business, whether freight or passengers.

Chargeable income of deceased’s estate, trust or settlement

33.1 For the purposes of this Act, the chargeable income of the estate of a deceased person, a trust or a settlement shall be the total income of the estate, trust or settlement for that year.


Commissioner may in certain circumstances determine income of business controlled from outside Fiji

34.1—(1) Where any business carried on in Fiji—

   (a) is controlled exclusively or principally by a non-resident; or

   (b) is carried on by a non-resident company or by a company which is under the control of a non-resident; or
(c) is carried on by persons having control of a non-resident company,
and it appears to the Commissioner from the returns made to him that the business produces no
income or less than the amount of income which, in his opinion, might be expected to arise
from that business, the person carrying on the business in Fiji shall, notwithstanding anything
to the contrary in this Act, be assessable for and liable to pay tax on an income of such amount
as the Commissioner shall determine, being, at the option of the Commissioner, either—
(i) such proportion as he shall determine of the total receipts (whether cash or
credit) of the business;
(ii) such proportion as he shall determine of the total purchase moneys paid or
payable (whether in cash or by the granting of credit) in the conduct of the
business; or
(iii) such other method as the Commissioner may determine.

(2) For the purposes of subsection (1), the persons in control of a company shall be
determined in accordance with the provisions of subsections (2), (4), (5) and (6) of section 12.


Taxation of other than life insurance business of insurance companies

35.1—(1) For the purposes of this Act, income in respect of the insurance business, other
than the life insurance business, of a non-resident insurance company, whether mutual or non-
mutual, means an amount ascertained—

(a) by taking the total of the gross premiums and interests and other income received or
receivable in Fiji (less any premiums returned to any person and premiums paid on
re-insurances and less any dividends which have borne tax in accordance with the
provisions of this Act) during the year preceding the year of assessment; and

(b) by deducting from such total a reserve for unexpired risks at the percentage adopted
by the company in relation to its operations as a whole for such risks at the end of
such year and adding thereto a reserve similarly calculated for unexpired risks
outstanding at the commencement of such year; and

(c) by deducting from the balance calculated as aforesaid the following amounts:—

(i) the actual claims paid or outstanding (less the amount recovered in respect
thereof); and

(ii) the agency expenses in Fiji; and

(iii) a fair proportion of the expenses of the head office of the company:

Provided that, notwithstanding any of the other provisions of this Act, but subject to any
arrangements made under the provisions of section 106, where any person carrying on business
in Fiji or his agent enters into a contract of insurance in respect of any business property
situated in Fiji at the time the contract was entered into with any person not carrying on
business in Fiji [or the insured event is one which can happen only in Fiji][2], 15 per cent of the
gross premiums of insurance shall be deemed to be the income of such last-mentioned person.
Where any such person carrying on business in Fiji enters into a contract of insurance as
aforesaid, he shall, for the purposes of this Act, be deemed to be the agent of the person with
whom such contract is made and shall make returns and be assessed and chargeable to tax
accordingly.
(2) For the purpose of avoiding doubt, it is hereby declared that that portion of the life insurance premiums received or receivable in respect of accident, disability and similar benefits contained in combined life and accident insurance policies and premiums received or receivable in respect of accident, disability and similar insurance policies shall be deemed to be in respect of business other than life insurance business and shall be liable to tax calculated in accordance with the provisions of subsection (1).

2 Inserted by §8 Act 12/1982 WEF 1st January 1982

36.1—(1) Notwithstanding anything contained in this Act, where a person carrying on the business of insurance in Fiji, other than life insurance business, re-insures outside Fiji with a non-resident the whole or any part of any risk, he shall be assessed and liable to pay tax as agent on an amount equal to 15 per cent of the sum of the gross amount of the premiums paid or credited by him in the year of income to such non-resident in respect of all such re-insurances, as if that amount were the chargeable income of such non-resident carrying on business in Fiji by insane of either a principal office or a branch.

(2) A person to whom this section applies shall, as agent, furnish the Commissioner within the prescribed time as the Commissioner allows in respect of every year of income, a return showing the gross amounts of the premiums paid or credited by him to non-residents in respect of all such re-insurances.

(3) Subsection (1) shall not apply in respect of premiums paid or credited on or after 8 November 1985 but before 8 November [1987].

2 Inserted by §12 Act 23/1985 WEF 1st January 1986

37.1—(1) For the purposes of this Act, income in respect of the life insurance business of a non-resident insurance company, whether mutual or non-mutual, means an amount ascertained—

(a) by taking the investment income (excluding dividends from companies incorporated in Fiji) received or receivable in respect of assets invested in Fiji and deducting therefrom the sum of the following:—

(i) an amount calculated by applying to the actuarial liabilities in respect of the policies registered in Fiji at the end of the year, the actuarial valuation rate of interest adopted by the company in relation to its operations as a whole:

Provided that, where, at the end of the year preceding the year of assessment, the assets of a company invested in Fiji in respect of its life insurance business are of a lesser amount than the aggregate of its actuarial and other liabilities in respect of its life insurance business in Fiji at that date, the sum to be allowed as a deduction under this paragraph shall be such proportion of the amount so calculated as the assets of the company invested
in Fiji in respect of its life insurance business bear to the aggregate of such actuarial and other liabilities; and

(ii) expenditure, other than expenditure of a capital nature, wholly and exclusively laid out or expended in gaining this investment income (excluding such dividends as aforesaid); and

(iii) the proportion which the investment income in Fiji (excluding such dividends as aforesaid) bears to the total gross income received or receivable in Fiji (including dividends and life insurance premiums) of the following, that is to say:—

(aa) expenditure other than expenditure of a capital nature, incurred in the general management of the life insurance business of the company in Fiji including contributions made to an approved fund; and

(bb) a fair proportion of the expenditure incurred in the general management of the life insurance business at the head office of the company or at any branch of the company controlling and supervising the life insurance business in Fiji, including a proportion of contributions made to an approved fund:

Provided that such expenditure shall be deemed to exclude all payments made under life insurance policies, any expenses wholly and exclusively incurred in connection with new business, and any commissions paid to any person; and

(b) by reducing the resulting amount calculated in accordance with the provisions of paragraph (a) proportionately by the formula

$$\frac{X}{Y}$$

where—

X — is so much of the amount calculated under sub-paragraph (i) of paragraph (a) as is referable to the company’s superannuation business in Fiji; and

Y — is the amount calculated under sub-paragraph (i) of paragraph (a).

For the purposes of this formula, “superannuation business” means that part of the life insurance business of the company in Fiji effected under the rules or conditions of any superannuation fund or superannuation scheme approved under the provisions of section 110:

Provided that—

(a) in the case of a non-mutual company—

(i) such proportion of the resulting amount calculated in accordance with the foregoing provisions of this subsection as is represented by the following formula shall be deemed to be the income referable to the share capital of the company; that is to say—

$$\frac{R}{S} \times T$$,

where—

R — is profits allocated to shareholders’ funds;

S — is profits allocated to life assurance funds for distribution to policy holders by way of reversionary bonuses or otherwise, and to shareholders’ funds.

(The figures for R and S are those which relate to the company’s operations as a whole—both within and outside Fiji).
T — is income in respect of the life insurance business calculated in accordance with paragraph (a) of this subsection, and the balance of such resulting amount shall be deemed to be the “mutual” income of such a company;

(ii) where no profits in respect of the company's life insurance business are divided between or among either shareholders or policy holders (or allocated to either shareholders’ funds or life assurance funds) in respect of the income year, but by virtue of the company’s Memorandum or Articles of Association or any rules or other document constituting the company or governing its activities, any profits to be divided among or allocated to the life insurance policy holders of the company are required to be not less than a specified proportion or percentage and not greater than a specified proportion or percentage of the total profits to be divided or allocated-the lower of such proportions or percentages of the income in respect of the life insurance business calculated in accordance with this subsection shall be deemed to be the “mutual” income of the company for that year; and

(b) for the purpose of paragraph (a) of this proviso, any State-owned corporation or similar institution transacting life insurance business in Fiji shall be deemed to be a non-mutual company and reference in that paragraph to terms generally applicable to a company such as to share capital, divisions or allocation among shareholders, and the company’s Memorandum or Articles of Association shall respectively be deemed to refer to the capital or like funds of such corporation or institution, to divisions or allocations among other than its policyholders, and to the legal enactment or other instrument governing its incorporation, or as may otherwise be appropriate to bring such corporation or institution within the operation of such proviso.

(2) Where the proportion calculated under the proviso to sub-paragraph (i) of paragraph (a) of subsection (1) is less than 1 to 2, the income of such a company shall be deemed to be 20 per cent of the gross amount of the life insurance premiums received or receivable in respect of policies registered in Fiji without any deduction whatsoever therefrom.

(3) Where an insurance company carried on life insurance business in conjunction with any other insurance business, the assessment of the income on which tax is payable shall be made in one sum but the income arising from the life insurance business shall be computed in accordance with the provisions of this section as if such life insurance business were a separate business from the other insurance business carried on by the company.

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PART VI – PERSONS CHARGEABLE

Resident partner to be agent of non-resident partners

38.1 Every resident member or manager of a partnership shall be the agent of any non-resident partner or partners and shall deduct the tax on all profits derived from the business payable or creditable to such non-resident partner or partners, and shall pay the amount so deducted to the Commissioner.
Trustees, assignees, executors, etc., to make return and pay tax before distribution

39. In cases where trustees in bankruptcy, assignees, liquidators, curators, receivers, administrators, heirs, executors and such like other persons or legal representatives are administering, managing, winding-up, controlling or otherwise dealing with the property, business or estate of any person who has not made a return for any taxable period or for any portion of a taxable period for which such person was required to make a return in accordance with the provisions of this Act, they shall make such return and pay any tax and interest and penalties assessed and levied with respect thereto before making any distribution of such property, business or estate.

Agent, etc., for non-resident

40. Every agent, trustee, mortgagor or person who collects or receives or is in any way in possession or control of income for or on behalf of a non-resident shall make a return of such income and, in the case of default by such non-resident of the payment of any tax, interest or penalty payable, shall, on being so notified by the Commissioner, deduct the amount of such tax, interest and penalty from either the income or other assets of such non-resident in his hands or coming into his hands from time to time and thereupon pay the same to the Commissioner. The agent of a non-resident shall be answerable for all matters required to be done by virtue of this Act for the assessment of the income of such non-resident, and personally liable for the payment of such notified tax, interest and penalty to the extent of any income or assets of such non-resident in his hands or from time to time coming into his hands.

Authorised officer of a company

41. Every company registered or carrying on business in Fiji or deriving income from property in Fiji shall, at all times, unless exempted by the Commissioner, be represented for the purposes of this Act by an individual person called its authorised officer being an individual person residing in Fiji and duly appointed by the company or on its behalf. With respect to every such company and its authorised officer, the following provisions shall apply:—

(a) an authorised officer shall be appointed by the company within 3 months after the date when this Act becomes law or within 3 months after the company commences carrying on business or to derive income in Fiji;
(b) the company shall at all times keep the office of its authorised officer filled;
(c) no appointment of an authorised officer shall be deemed to be duly made until after a notice thereof in writing specifying the name of the authorised officer and his address for service has been given to the Commissioner;
(d) service of any document at his address for service or personally on the authorised officer shall be sufficient service upon the company for all the purposes of this Act, and if, at any time, there is no authorised officer, then service upon any person acting or appearing to act in the business of the company shall be sufficient;
(e) the authorised officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and in case of default shall be liable to the same penalties;

(f) everything done by the authorised officer which he is required to do in his representative capacity shall be deemed to have been done by the company. The absence or non-appointment of its authorised officer shall not excuse the company from the necessity of complying with any of the provisions of this Act or from any penalty for failure to comply therewith, but the company shall be liable to the provisions of this Act as if there were no requirement to appoint an authorised officer;

(g) any notice given to or requisition made upon its authorised officer shall be deemed to be given or made upon the company;

(h) the company shall be liable to be proceeded against as a principal in respect of any act or default under this Act of its authorised officer;

(i) notwithstanding anything contained in this section, and without in any way limiting, altering or transferring the liability of the company or of its authorised officer, every notice or process which under this Act may be given to or served upon the company or its authorised officer may, if the Commissioner thinks fit, be given to or served upon any director, secretary, officer, attorney or agent who shall thereupon have the same liability in respect of that notice or process as the company or its authorised officer would have had if it had been given to or served in accordance with the provisions of paragraph (d).


Persons chargeable in the case of a trust or settlement or income paid to a beneficiary

42.1—(1) Subject to the other provisions of this Act, income accumulating to the estate of a deceased person, a trust or settlement shall be taxable in the hands of the trustees or other like persons acting in a fiduciary capacity.

(2) Sums regarded as income of a beneficiary of the estate of a deceased person, a trust or settlement shall be taxed in the hands of such beneficiary and any such sums shall not also be taxed in the hands of the trustee or other like persons.

(3) Income derived by or accruing to a minor may be taxable in the hands of the trustee or other like person acting in a similar capacity.


Income of a married woman

43.1—(1) For all purposes of this Act, the income of a married woman shall be deemed to be income accrued to her husband and shall be assessed and be liable to taxation accordingly:

Provided that—

(a) where a married woman is in receipt of income exceeding [[$1,200]]² in any year, she and her husband may jointly elect to be assessed separately and such persons shall,
subject to the other provisions of this section, thereupon be assessed as if they were unmarried. Such election shall state whether the husband or the wife is to be the person to whom allowances, if any, under the provisions of section 25 or 31 may be made and only the person so stated shall be entitled to receive any such allowance;

(b) a married woman separated from her husband under an order of a court of competent jurisdiction or a written agreement or in such circumstances that the separation is likely to be permanent shall be treated as an unmarried person [, subject to the provisions of section 25(1)(A)]³.

(2) (a) In no case shall the total of the allowances referred to in paragraph (a) of the proviso to subsection (1) or of the allowances, if any, available under the provisions of this Act exceed the total of such allowances or deductions as would be available to the husband [and, under section 26, to the wife]¹ but for the election to be assessed separately.

(b) The deductions permitted under the provisions of section 26 shall be allowed to the spouse entitled in accordance with that section …⁵.

(c) The total tax due on aggregation of the joint chargeable income shall be apportioned in the ratio of each spouse’s chargeable income and the respective apportioned sums shall be the tax due from each spouse:

Provided that nothing in this paragraph shall prevent the operation of collection processes within sections 75, 76 and 77 against the husband in respect of tax due from his wife;

(d)⁶ the rebate permitted under section 100A shall be allowed to the spouse entitled in accordance with that section, but, should the limitation imposed by this subsection apply to reduce the rebate to either or both husband and wife, the rebate shall be apportioned in terms of their respective entitlement in such manner as they may agree or, in default of agreement, in such manner as appears to the Commissioner to be reasonable.

(3) In any year in respect of which an election under the provisions of subsection (1) is effective, the income of the wife shall be assessed separately as her income and shall not be assessed as the income of the husband.

(4) An election under the provisions of this section shall be made in writing to the Commissioner not later than 31 March in the year immediately following the year of income.

(5) Where an election is made in respect of any year, it shall be irrevocable in respect of such year and such election shall continue to apply in respect of subsequent years until the election is revoked in respect thereof.

(6) Where an election is revoked after 31 March in any year, the revocation shall not have effect in respect of that year but shall affect subsequent years.

(7) Revocation of an election shall not prohibit a further election under the provisions of paragraph (a) of the proviso to subsection (1).

(8) The Commissioner may, at any time, extend the date for election under subsection (4) or for revocation under subsection (6).
(9) An election made under this section shall not be effective in respect of any year in which the income of the married woman is not in excess of $1,200.

(10) Where an election for separate assessment has been made, the tax assessed separately shall not be less than the tax which would have been assessed on the spouses’ joint incomes if no election had been made, but where a wife is in receipt of—

(a) earnings (or a pension pertaining thereto) or profits relating to personal exertion income in which her own skills are used; or

(b) income which arises from inheritance or from her own savings, or assets acquired from her own savings,

and such earnings, profits or income arise or accrue from a source which is unconnected with any funds provided by her husband or any trade, business, profession or vocation carried on by her husband, either individually or in association with any other person, or by a company in which the husband has an interest and to which subsection (1) of section 12 applies, that tax payable shall not exceed the sum of the tax payable on—

(i) the joint income, excluding the wife’s earnings, profits and income described in this subsection, taxed as a single person; and

(ii) the wife’s earnings, profits and income, as so described, taxed as a single person ... with a deduction of $1,200 in respect of the allowance for the wife.

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2 Substituted for “$1,000” by §6(a) Act 35/1999 WEF 1st January 2000; “$1,000” substituted for “$750” by §9 Act 3/1999 WEF 1st January 1999
3 Inserted by §7 Decree 10/1990 WEF 1st January 1990
4 Inserted by §6(b) Act 35/1999 WEF 1st January 2000
5 Words “but, should the limitation imposed by this subsection apply to reduce the deductions available to either or both husband and wife, such deductions shall be apportioned within their respective entitlement in such proportion as they agree, or, in default of agreement, in such manner as appears to the Commissioner to be reasonable” deleted by §6(c) Act 35/1999 WEF 1st January 2000
6 Inserted by §12 Act 21/1980 WEF 1st January 1980
7 Substituted for “$1,000” by §6(d) Act 35/1999 WEF 1st January 2000; “$1,000” substituted for “$750” by §9 Act 3/1999 WEF 1st January 1999
8 Words “with no general rebate” deleted by §6(e)(i) Act 35/1999 WEF 1st January 2000
9 Substituted for “$1,000” by §6(e)(ii) Act 35/1999 WEF 1st January 2000; “$1,000” substituted for “$750” by §9 Act 3/1999 WEF 1st January 1999
10 Substituted by §13 Act 23/1985 WEF 1st January 1986 – previously read:

“: Provided that, where a wife is in receipt of earnings (or a pension pertaining thereto) or profits relating to personal exertion income in which her own skills are used and such earnings or profits arise or accrue from a source which is unconnected with any trade, business, profession or vocation carried on by her husband, either individually or in association with any other person, or by a company in which the husband has an interest and to which subsection (1) of section 12 applies, that tax payable shall not exceed the sum of the tax payable on—

(i) the joint income, excluding the wife’s personal exertion income, taxed as a single person; and

(ii) the wife’s personal exertion income taxed as a single person with no general rebate but with a deduction of $750 in respect of the allowance for the wife.”

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PART VII – RETURNS AND INFORMATION

Return of income

44.1—(1) Every person liable to taxation under the provisions of this Act shall (subject in the case of a company, to the provisions of section 53, and in the case of a business, to the provisions of section 52) on or before 31 March in each year without notice or demand deliver to the Commissioner a return, in such form as may be approved by the Commissioner, of his total income for the immediately preceding year. In such return, there shall be stated an
address for service in Fiji to which all assessments, notices and other documents may be posted or served:

Provided that any person whose only source of income is from emoluments as defined in section 79 and who is not liable to have any deductions of tax made and who has not had such deductions as aforesaid lawfully made from such emoluments in accordance with any regulation made under the provisions of section 81 and any person whose only liability has been for deduction of [basic tax] shall not be required to lodge a return of such income unless required to do so by notice or demand sent to him by the Commissioner. Such notice or demand may be sent to that person by serving it on him personally or by posting it to the address for service as specified in this section or under any regulation made under the provisions of section 81 and, in the case of posting, shall be deemed to have been received by that person upon the expiry of 28 days from the date of posting.

(2) Any such return shall be made in Fiji currency.

2 §6 – repealed by §3 Decree 30/1992 WEF 1st July 1992

Return of corporations

45.¹ The return in the case of a company, corporation, association or other body shall be made and signed by the authorised officer or, if an authorised officer has not been appointed, by the managing director, secretary, treasurer or chief agent having a personal knowledge of the affairs of such company, corporation, association or other body or, in any case, by such other person or persons employed in the business liable or believed to be liable to taxation as the Commissioner may require.


Return by guardian or legal representative

46.¹ If a person is unable, for any reason, to make a return required by section 44, such returns shall be made by the guardian, curator, tutor or other legal representative of such person or, if there is no such legal representative, by someone acting as agent for such person, and, in the case of the estate of any deceased person, by the executor, administrator or heir of such deceased person, and, if there is no person to make a return under the provisions of this section, then by such person as may be required by the Commissioner to make such return.


Return by employers of salary and by companies of dividends, etc.

47.¹ All employers shall make a return of such persons in their employ receiving any salary or other remuneration in excess of such an amount as the Commissioner may approve, and all companies, corporations, associations and other bodies shall make a return of all dividends and bonuses paid to shareholders and members and all interest paid to debenture holders, and an persons, in whatsoever capacity acting, having the control, receipt, disposal or payment of fixed or determinable annual or periodical gains, profits or incomes of any taxpayer shall. make and render a separate and distinct return to the Commissioner of such gains, profits or incomes containing the name and address of each taxpayer. Such returns shall be delivered to the
Commissioner on or before the last day of February in each year without any notice or demand being made therefor, in such form as the Commissioner may approve:

Provided that, to the extent to which any person is required under other provisions of this Act or under any regulation made under the provisions of section 81 or 107 to furnish similar information in respect of any other person, then, to that extent, such person is relieved of his requirement to make a return under this section.


Time may be extended

48. The Commissioner may, at any time, extend the time for making any return.


Commissioner may demand special returns and make special assessments

49. (1) This section applies to the following persons:—

(a) an agent, non-resident trader or person believed by the Commissioner to be about to discontinue the carrying on of business in Fiji unless such agent, trader or person satisfies the Commissioner that he intends to continue residing in Fiji;

(b) a person who is believed by the Commissioner to be about to leave Fiji;

(c) a non-resident who has ceased to carry on business in Fiji or to derive income therefrom;

(d) the executors or administrators of a deceased taxpayer in respect of income derived by him in his lifetime;

(e) a person who has become bankrupt, or a company which is in the course of being wound up.

(2) The Commissioner may, if he thinks fit, at any time during the income year or in any subsequent year, require any person to whom this section applies to make a return of income derived from any specified transaction or transactions, or during any specified period, and may assess him for tax on the income so returned, or when default is made in making any such return, or the Commissioner is dissatisfied therewith, then on a sum estimated according to the best of the Commissioner’s judgment, and shall give notice of the assessment to the person so assessed.

(3) Any person so assessed shall have the same right of objection as is conferred by section 62.

(4) Tax so assessed shall be payable by the date specified by the Commissioner in the notice of assessment and the tax shall be recoverable in the same manner as tax assessed under section 55.

(5) If any such assessment of tax on income is made during the income year, the assessment under this section shall be made in accordance with the law in force and the rate of tax applicable at the date of the making of the assessment.
(6) No assessment made under this section shall, in any manner, preclude a subsequent assessment of the same person in the ordinary course in respect of the whole of the income derived by him during the income year with respect to which the assessment under this section was made, but, in any such case, credit shall be given against the tax charged in the subsequent assessment for that paid under the earlier assessment.

Demand for additional information

50.\(^1\) (1) If the Commissioner, in order to enable him to make an assessment or for any other purpose, desires any information or additional information or a return from any person who has not made a return or a complete return, he may, by registered letter or by personal service of a notice in writing, demand from such person such information, additional information or return, and such person shall deliver to the Commissioner such information, additional information or return within the period of time determined by the Commissioner in such registered letter or notice. For the purpose of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Commissioner with the provisions of this section as well as default thereunder shall be sufficiently proved in any court of law by the affidavit of the Commissioner or any other responsible officer of the [Fiji Islands Revenue and Customs Authority]\(^2\). Such affidavit shall have attached thereto as an exhibit a copy or duplicate of the said letter or notice.

Production of letters, accounts, etc.

(2) The Commissioner may require the production or the production on oath by the taxpayer or by his agent or officer or by any person or partnership holding or paying or liable to pay any portion of the income of any taxpayer of any letters, accounts, invoices, statements and other documents.

(3) The Commissioner may require and demand the production or the production on oath by any person or his agent or officer of any letters, accounts, invoices, statements, books or documents held by such person, agent or officer for the purpose of arriving at the tax believed to be payable by any other person, and the same shall be produced within the time determined by such demand.

Persons in receipt of money, etc, for another to produce information required

(4) Every person who, in whatsoever capacity acting, is in receipt of any money, thing of value or of profits or gains arising from any source of or belonging to any other person shall, when required to do so by notice from the Commissioner, prepare and deliver to the Commissioner any information required within the time determined by such notice.

Right of access and inspection

5.\(^a\) (a) The Commissioner (or any officer authorised by him in writing upon the production of his written authority) shall at all reasonable times be entitled to enter upon any lands, buildings or places for the purpose of inspecting all books and documents, whether in the custody or under the control of a public officer or a body corporate or any other person whatsoever, if the Commissioner or officer considers such inspection likely to assist in the ascertainment of the income of any person or in the collection or recovery of tax and may inspect any such books or documents and may without fee or reward make extracts or copies of any such books or documents.
(b) The Commissioner or any officer authorised by him may, for the purposes of any inspection under this subsection, require the production of any book or document by any person in whose custody or control such book or document may be and may require any such person to give all reasonable assistance in the inspection and to answer all proper questions relating thereto.

Protection for companies applying to Commissioner to make determination

(6) A company to which section 12 applies may, at any time after it has lodged its return of income pursuant to the provisions of this Act, apply to the Commissioner to determine whether or not, in relation to the fiscal year of the company covered by such return, a reasonable distribution of profits has been made, and the company shall, if required by the Commissioner, supply such further information as the Commissioner may deem necessary in order to enable him to make such determination. If, within 9 months after the receipt by the Commissioner of such application, or, if further information has been required as aforesaid, within 3 months after the receipt of such information, the Commissioner has not intimated to the company his intention to take further action in the case of the company under section 12 in respect of the fiscal year to which such application relates, the power of the Commissioner to take any such further action in respect of that year shall absolutely cease and determine.


Partnerships – return of partners

51.1—(1) Persons carrying on any trade, profession, business or vocation in partnership shall make a joint return as partners in respect of such trade, profession, business or vocation, together with such particulars as may from time to time be prescribed and each partner shall be separately and individually liable for rendering a joint return. The income of any partner from the partnership for the income year shall be deemed to be the share to which such partner is entitled in the income of the partnership for that year (such income being ascertained in accordance with the provisions of this Act) and shall be included in the return of income to be made by such partner under the provisions of this Act:

Provided that a husband and wife carrying on business together shall be deemed not to be partners for any purpose under this Act.

(2) A member of a partnership of a business of which the fiscal year is other than the calendar year shall make a return of the income of the business within 3 months of the end of such fiscal year.


Return of proprietor of a business

52.1 A proprietor of a business of which the fiscal year is other than the calendar year shall make a return of the income of the business within 3 months of the end of the fiscal year.

Return of company where fiscal year not calendar year

53. 1 Any company, the fiscal year of which is not the calendar year, shall make a return within 3 months of the end of its fiscal year.


Return of withholding tax or dividend tax deducted

54. 1 Any taxpayer or agent who deducts withholding tax or dividend tax on payment of income under sections 8, 9 [, 9A] and 10 shall, not later than the last day of February [each year deliver to the Commissioner]3 details of such payments made in the previous year of assessment on a form [approved]4 by the Commissioner.

3 Substituted for “annually submit” by §9(a) Act 12/1982 WEF 1st January 1982
4 Substituted for “prescribed” by §9(b) Act 12/1982 WEF 1st January 1982

PART VIIA – REGISTRATION OF TAX AGENTS


Interpretation

54A. 1 In this Part, unless the context otherwise requires:—

“application” means an application to the Board under this Part;
“Board” means the Tax Agents’ Board constituted under section 54B;
“person” means a natural person;
“tax agent” means any person registered as a tax agent under this Part.


Tax Agents’ Board

54B. 1—(1) There is hereby constituted the Tax Agents’ Board consisting of 3 members who shall be:—

(a) the Auditor-General, who shall be Chairman of the Board;
(b) a member of the Fiji Institute of Accountants nominated by the Council of that Institute; and
(c) a person with accounting knowledge and experience nominated by the Minister.

(2) A member of the Board shall be paid such expenses as the Minister may direct.


Proceedings of the Board

54C. 1 At all meetings of the Board, a quorum shall be 2 members and all questions shall be decided by a majority of them, the Chairman having a casting and a deliberative vote. In the absence of the Auditor-General, the member nominated by the Minister shall be Chairman.

Protection of members

54D.1 No member of the Board shall be liable to any action or suit for any act done or omitted to be done in the bona fide execution of his duties under this Part.

Power to require attendance of witnesses, etc.

54E.1 For the purposes of carrying out its powers, duties and functions under this Part, the Board shall, subject to the provisions of section 4 of this Act, have the same powers and authority to summon witnesses and to admit and receive evidence as are conferred upon the commissioners of a Commission of Inquiry by section 9 of the Commissions of Inquiry Act and the provisions of sections 14 and 17 of that Act shall apply mutatis mutandis in relation to the powers and authority vested in the Board under this Part.

Registration of tax agents

54F.1—(1) Any person desiring to be registered as a tax agent for the purposes of this Act may make application to the Board for registration.

(2) Each application to the Board for registration as a tax agent shall be accompanied by the prescribed fee.

(3) Registration as a tax agent, if granted by the Board, shall be valid for a period of up to and including the thirty-first day of December of the year in which the application was granted.

(4) Any registered person who, upon the expiry of his registration, wishes to be registered for the following year shall submit his application, together with the prescribed fee, for registration to the Board within twenty-one days of the date of expiry of his registration, failing which his registration shall be deemed to be cancelled.

(5) Subject to subsection (6), if an applicant satisfies the Board that he is a fit and proper person to prepare income tax returns and transact business on behalf of taxpayers in income tax matters he shall be entitled to registration as a tax agent.

(6) If an applicant for registration does not possess an academic qualification acceptable to the Board, the Board may request the Fiji Institute of Accountants to conduct on its behalf an examination to determine whether the applicant’s knowledge of accounting and of income tax law and practice is sufficient to entitle him to registration.
(1) Any person desiring to be registered as a tax agent may make application to the Board for registration and every such application shall be accompanied by the prescribed fee.

(2) Subject to subsection (3), if an applicant satisfies the Board that he is a fit and proper person to prepare income tax returns and transact business on behalf of taxpayers in income tax matters he shall be entitled to registration as a tax agent.

(3) If an applicant for registration does not possess an academic qualification acceptable to the Board, the Board may request the Fiji Institute of Accountants to conduct on its behalf an examination to determine whether the applicant’s knowledge of accounting and of income tax law and practice is sufficient to entitle him to registration."

Cancellation of registration

54G. —(1) The Board may cancel the registration of any tax agent upon being satisfied that—

(a) any return to the Commissioner which has been prepared by the tax agent is false in any material particular, unless he establishes to the satisfaction of the Board that the false statement was not wilfully or negligently made;

(b) the tax agent has become bankrupt;

(c) the tax agent has ceased to carry on business as a tax agent;

(d) the tax agent has failed to maintain his personal tax affairs in a satisfactory state;

(e) for any other reason, the tax agent has ceased to be a fit and proper person to remain registered.

(2) The cancellation of a registration under this section shall not take effect in any case until the expiration of 60 days from the date of notification of the decision of the Board and, if, within that period, the person affected gives notice of his intention to appeal against the decision, shall not take effect until and unless the cancellation is confirmed by the Minister.

54H. —(1) Any person whose application for registration under section 54F is refused or whose registration is cancelled under section 54G may, within 60 days of notification to him of such refusal or cancellation, appeal to the Minister.

(2) Any appeal under subsection (1) shall be in writing and, after considering the appeal, the Minister may confirm or reverse the decision of the Board.

54J. —(1) No person other than a tax agent shall demand or receive any fee for or in relation to:

(a) the preparation of any return to the Commissioner;

(b) any objection to any assessment;
(c) the transaction of any business on behalf of any person in respect of any of that person’s rights or obligations under this Act.

(2) This section shall not apply to any barrister and solicitor performing legal work in connection with income tax matters.

Advertising

54K.¹ No person other than a registered tax agent shall represent himself to be a tax agent or indicate that, for reward, he will offer assistance to any person in respect of that person’s rights or obligations under this Act.

PART VIII – ASSESSMENTS

Notice of assessment to be sent and time for payment

55.¹—(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.

Service of notice of assessment

(2) A notice of assessment may be sent to a taxpayer by serving it upon him personally or by posting it to the address furnished by the taxpayer under the provisions of section 44 or, in the case of a non-resident, by serving it upon or posting it to an agent of the non-resident, and shall be deemed to have been received by the taxpayer upon the expiry of 28 days from the date of posting.

Appointment of agent in the United Kingdom

56.¹—(1) For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom, the Minister may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Commissioner in respect of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the, Commissioner the amount of the chargeable income of such person in accordance with this Act and shall forward to the Commissioner the accounts and computations upon which his report is based.

(2) If it appears to the Commissioner that any error has occurred in the accounts or computations, he may refer the report back for further consideration.

(3) Nothing in this section shall affect the right of objection and appeal conferred by section 62.
Assessment may be sent to agent

57. The Commissioner may send or serve upon any agent of a non-resident any assessment, notice or other document and receipt of such assessment, notice or document by such agent shall be deemed to be receipt by the non-resident.


Commissioner not bound by returns

58. The Commissioner shall not be bound by any return or information supplied by or on behalf of a taxpayer and, notwithstanding such return or information, or, if no return has been made, the Commissioner may determine the amount of the tax to be paid by any person.


Additional assessments

59. —(1) Any person liable to pay tax shall continue to be liable and, where any person so liable has failed to make a return as required by this Act or has made an incorrect or false return, the Commissioner may, at any time, assess such person for the tax or the additional tax which such person may be liable to pay, and the provisions of this Act as to notices of assessment, payment and objection shall apply to such assessment or additional assessment and to the tax charged thereunder.

(2) In addition to any powers conferred upon the Commissioner under subsection (1), the Commissioner may re-open any assessment within 6 years of the end of the year of assessment and may, where the amount of tax assessed under such assessment is less than the amount which ought properly to have been assessed, amend such assessment. Where the Commissioner amends an assessment under the provisions of this subsection, he shall fix the date of payment of any tax outstanding thereunder. An objection shall lie from the amended assessment in the same manner as if it were an original assessment but subject to the proviso to subsection (1) of section 62.


Commonwealth Development Corporation

60. Where the Commonwealth Development Corporation or the Fiji Development Company Limited is a shareholder in any company, other than a non-Fiji company, the like consequences shall follow, for all purposes of this Act, as would follow if that shareholding were an investment at interest and the gross amount of the interest payable thereon in respect of any 1 year were that sum which would yield, after deduction of tax at the normal rate, the gross amount of the dividends actually paid in respect of that shareholding in the year in question:

Provided that the provisions of this section shall only operate to the extent that any saving in tax to the company paying the dividend is passed on to the Corporation or Company.


Provisional tax and tax deducted from emoluments to be credited against tax assessed
61.1—(1) The Commissioner shall, in assessing the liability of any person for tax in respect of any year of assessment in accordance with the provisions of section 55, set off against such liability the amount of tax deducted from emolument income (if any) during that year and also the amounts of provisional tax paid in respect of such liability and—

(a) if the sum of the said amounts of tax deducted from emoluments and provisional tax exceeds the amount due in respect of the said liability, the excess shall, subject to the other provisions of this section, be refunded to the taxpayer as soon as practicable thereafter; or

(b) if the amount due in respect of the said liability exceeds the sum of the said amounts of tax deducted from emolument income and of provisional tax, the excess shall, subject to the other provisions of this section, be payable by the taxpayer.

(2) If, in respect of any person to whom there is an excess amount to be refunded in accordance with paragraph (a) of subsection (1), there is an amount due to the Commissioner by that person in respect of any tax, penalty, interest of costs [under this Act, or the Value Added Tax Decree 1991, or the Gambling Turnover Tax Decree 1991] for that year or any other year of assessment, then such excess shall first be applied towards such other liability and only any then remaining excess shall be refunded to the taxpayer.

(3) In the making of any refund to a taxpayer or in the recovery of any further amount payable by a taxpayer in accordance with the provisions of this section, any amount of less than $2 shall be ignored by the Commissioner.

2 Inserted by §7 Act 2/1993 WEF 1st January 1993

PART IX – APPEALS

Objection to assessment

62.1—(1) Any taxpayer dissatisfied with an assessment may, personally or by his agent, within 60 days of the date upon which the notice of assessment has been served upon him or his agent or, where such notice has been posted, the date of posting, lodge with the Commissioner an objection in writing to the assessment in the form set out in Form 2 in the First Schedule stating the grounds on which he relies:

Provided that, where the assessment is an amended assessment, the taxpayer shall have no further right of objection except to the extent to which, by reason of the amendment, a fresh liability in respect of any particular is imposed on him or an existing liability in respect of any particular is increased.

(2) The Commissioner may, in his discretion, extend the time for giving notice of objection under subsection (1).

(3) On receipt of the notice of objection referred to in subsection (1), the Commissioner may require the taxpayer to furnish such particulars as the Commissioner may deem necessary with respect to his income and to produce all books or other documents in his custody or under his control relating to such income, and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him and may examine such person (except
the clerk, agent, servant or other person confidentially employed in the affairs of the taxpayer) on oath or otherwise.

(4) The Commissioner shall consider the objection and shall either allow or disallow it wholly or in part.

(5) The Commissioner shall give written notice of his allowance or disallowance of the objection to the person objecting and shall state in such notice the time, not being less than [35] days, within which such person may exercise the right of appeal given to him in subsection (6) or in subsection (7) of section 70. [Any notice required to be given under this subsection shall be sent by registered post and the period within which an appeal may be lodged shall commence upon the date of posting of the notice.]  

(5A) Where, before the expiration of the time specified in a notice is given under subsection (5), the person to whom the notice is given makes application in writing to the Commissioner for an extension of that time, the Commissioner may, in his discretion, extend that time for such period as he thinks fit and shall, as soon as practicable, give notice in writing to the applicant of his decision, and, where the time is so extended, a reference in this Act to the time specified in a notice given under subsection (5) shall be deemed to include a reference to that time as so extended.

(6) Any person objecting to the decision of the Commissioner under subsection (4) may, within the time determined under subsection (5), appeal to the Court of Review and such appeal shall be heard and determined as hereinafter provided. Save with the leave of the Court of Review, no person may appeal to the Court of Review upon any ground other than a ground stated in the objection to the Commissioner.

(7) The obligation to pay and the right to receive and recover any tax chargeable under this Act (including any interest, costs and penalties) shall not, unless the Commissioner so directs, be suspended by any objection or appeal or pending the decision of the Court of Review under section 63, 69 or 70 but, if any assessment is altered on objection or appeal or in conformity with any such decision, a due adjustment shall be made, amounts paid in excess being refunded and amounts shortpaid being recoverable.

(8) Where no objection is made within the time for objecting set out in subsection (1) or where that time is extended by the Commissioner, within the time so extended, the assessment shall stand and shall be valid and binding upon the taxpayer, notwithstanding any defect, error or omission that may have been made therein or in any proceeding required by this Act or any regulation thereunder.

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2 Substituted for “21” by §8(a) Act 25/1986 WEF 1st January 1987
3 Substituted by §10 Act 12/1982 WEF 1st January 1982 for “Any notice required to be given under this subsection may be given in the manner prescribed in subsection (2) of section 55 of this Act for the service of a notice of assessment.”
4 Inserted by §8(b) Act 25/1986 WEF 1st January 1987

Establishment of Court of Review

63. 1—(1)  The Judicial Service Commission’ may appoint a person of legal knowledge and experience for the purpose of hearing and determining appeals from the assessment of the Commissioner, and the person so appointed shall hold a court to be called the Court of Review,
and the said Court of Review shall, for the purpose of hearing and determining the appeals under this Act referred to it, have powers and authority similar to those vested in the [High Court]\(^3\) as if the appeal were an action between the taxpayer and the Commissioner.

(2) Section 102 of the Constitution\(^4\) shall apply to the office of the Court of Review.

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2. Judicial Service Commission replaced the Judicial and Legal Services Commission – see §131 and §195(2)(b)(ii)
3. Reference to “High Court” substituted for “Supreme Court” by §3(e) Interpretation Act (Cap. 7) WEF 4th December 1987

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**Rules of Court**

64.\(^1\) The Chief Justice shall have the power, to make rules of court\(^2\) generally for regulating any matters relating to the practice and procedure of the said Court of Review or the fees to be charged and the costs of proceedings therein. Such rules shall be regarded as forming part of this section.

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2. Rules of Court made 26th March 1966; amended by LN 22/1983

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**Court sittings**

65.\(^1\) The Court of Review shall fix the date and place of hearing of appeals and shall notify the parties accordingly:

Provided that the hearing of the appeal by the Court of Review shall not commence until after the expiration of not less than 30 days from such notification as aforesaid.

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**Court of Review to decide and notify appellant and Commissioner**

66.\(^1\)—(1) The Court of Review, after hearing any evidence adduced and upon such other inquiry as it considers advisable, shall determine the matter and confirm or amend the assessment accordingly.

(2) The Court of Review shall have power to increase the assessment in any case before it.

(3) The Court of Review shall send a copy of its decision by registered mail to the Commissioner and to the appellant or its agent or officer.

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**Proceedings ex parte**

67.\(^1\) If the appellant fails to appear either in person or by agent, the Court of Review may proceed ex parte or may defer the hearing.

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**Costs**
68. In any case where the appeal is unsuccessful, the Court of Review may direct that the appellant shall pay the costs or part of the costs of such appeal, and, if such appeal is successful, the Court of Review may direct that the costs or any part thereof be paid by the [State].

2 Reference to “State” substituted for “Crown” by §3(e) Interpretation Act (Cap. 7) WEF 7th October 1987

Appeal to [High Court]

69. If the appellant is dissatisfied with the decision of the Court of Review, he may, within 30 days after the date of such decision, give a written notice to the Commissioner in the form set out in Form 3 in the First Schedule that he desires to appeal from the decision. If the appellant gives such notice or if the Commissioner is dissatisfied with the decision, the Commissioner shall refer the matter to the [High Court] for hearing and determination. Such reference may be made in the form set out in Form 4 in the First Schedule and the Commissioner shall notify the other party to the appeal by registered letter that he has made such reference. On any such reference, the [High Court] shall hear and consider such matter upon the papers and evidence referred and upon any further evidence which the appellant or the Commissioner produces under the direction of the said court.

1 Reference to “High Court” substituted for “Supreme Court” by §3(e) Interpretation Act (Cap. 7) WEF 4th December 1987
3 See Note 1
4 See Note 1

Discretions Review Board

70. (1) There shall be a Discretions Review Board, in this Act referred to as “the Board”, which shall have the power to bear and determine appeals against the exercise by the Commissioner of his discretion in respect of such of the matters under this Act as are specified in the Second Schedule:

Provided that no appeal shall lie to the Board save in a case where the taxpayer has lodged an objection with the Commissioner under section 62 and the Commissioner has disallowed such objection either wholly or in part.

(2) The Chairman of the Board shall be appointed by the Judicial and Legal Services Commission and shall be a barrister and solicitor of at least 6 years’ standing.

(3) The Judicial and Legal Services Commission shall appoint a panel of 6 members of the Board in addition to the Chairman, being persons with legal, accountancy, banking, commercial or other such qualifications as may seem suitable.

(4) Section 102 of the Constitution shall apply to the office of Chairman of the Board and to the office of member of the Board.

(5) The Chairman and members of the Board may be paid such remuneration as the Minister may allow.
(6) For each appeal, the Board shall be constituted by the Chairman and shall consist of 3 members, 1 of whom shall be the Chairman, or, if he is for any reason unable to sit, such member as he may nominate to act as Chairman for that appeal.

(7) Any taxpayer dissatisfied with an exercise of discretion by the Commissioner in respect of any of the matters specified in the Second Schedule may personally or by his agent, within the time determined by the Commissioner under the provisions of subsection (5) of section 62, file with the Chairman of the Board and serve on the Commissioner a notice of appeal in writing in the form set out in Form 5 in the First Schedule, together with such copies thereof as may be required, stating clearly and concisely the grounds on which he is dissatisfied with the Commissioner’s decision, and together with a fee of $2. Save with the leave of the Board, no person may rely on any ground of appeal before the Board, other than a ground stated in the objection to the Commissioner.

(8) The Board shall have all the powers of a Court as to taking evidence on oath, issuing summonses, awarding costs and other matters. The Commissioner and the taxpayer may appear before the Board personally or by means of a barrister and solicitor or agent. Subject to the provisions of this section, the Board may regulate its own procedure.

(9) Appeals to the Board shall be by way of rehearing. Notwithstanding that the Board may consider that the Commissioner has made no error in law and acted on no wrong principle in exercising his discretion, the Board may substitute its own discretion for the discretion of the Commissioner. For the purpose of exercising its powers, the Board shall have all the powers which the Commissioner has in making assessments, determinations and decisions, including decisions on objections, under the provisions of this Act.

(10) A taxpayer shall not appeal both to the Court of Review and to the Board in respect of the same matter.

(11) The decision of the majority of the members of the Board hearing an appeal shall be the decision of the Board. The Chairman shall have a deliberative but not a casting vote.

(12) A decision of the Board in an appeal under this section shall be given in writing, stating shortly the grounds for the decision, and may either confirm, reduce or increase the amount determined by the Commissioner in exercise of his discretion. The Board’s decision shall be final and conclusive and shall not be subject to any further appeal. The Board shall notify its decision to the Commissioner and the Commissioner shall make such amendments to the assessment as may be necessary to give effect to such decision.

(13) The provisions of subsection (7) of section 62 and subsection (3) of section 71 shall apply to the proceedings of the Board as they apply to objection proceedings and the proceedings of a court respectively.

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2 See Note 2 §63
3 See Note 2 §54J
4 See Note 2 §63
5 See Note 2 §63
6 See Note 2 §54J
No assessment to be set aside for technical reasons

71.1—(1) No assessment shall be set aside by a court upon the ground that there has been any error or omission in connection with any proceedings required to be taken under this Act or any regulation thereunder, but such court, in any case that may come before it, may determine the true and proper amount of the tax to be paid under this Act.

Onus of proof on taxpayer

(2) On the hearing and determination of all objections to assessments under this Act, the onus of proof shall be on the taxpayer.

Proceedings in camera

(3)2 All the proceedings of the courts shall be held in camera if requested by the taxpayer.


PART X – COLLECTION, RECOVERY AND REPAYMENT OF TAX

Trustees, etc., to obtain certificate before distribution

72.1—(1) Trustees in bankruptcy, assignees, administrators, executors and other like persons, before distributing any assets under their control, shall obtain a certificate from the Commissioner certifying that his requirements relating to tax and interest and penalties properly chargeable against the person, property, business or estate, as the case may be, have been satisfied. Distribution without such certificate shall render the trustees in bankruptcy, assignees, administrators, executors and other like persons personally liable for the tax and interest and penalties.

Refunded contributions – approved superannuation or retirement benefit fund – certificate to be obtained before payment

(2) The trustees or paying agent of any approved superannuation fund or retirement benefit fund, including the Fiji National Provident Fund, before refunding any contributions, shall obtain a certificate from the Commissioner of the amount of tax due in respect of such refund having regard to the provisions of paragraph (o) of the proviso to section 11 (as qualified by paragraph (27) of section 17), and shall, on the instructions of the Commissioner, deduct any tax that is due before making payment. Distribution without such certificate shall render the trustees, paying agent or other like person personally liable for the tax.


Tax due from agent of non-resident in respect of premiums on insurance and re-insurance

73.1 Where a person is or may become liable under the proviso to subsection (1) of section 35 or under section 36 to pay tax as agent for a non-resident in respect of any premium paid or credited by him to that non-resident in respect of insurance or re-insurance—

(a) he shall, for all purposes of this Act, be deemed to have received the premium in his representative capacity immediately before it was so paid or credited; and
(b) if he pays or credits the premium before arrangements have been made to the satisfaction of the Commissioner for the payment of any tax which may be assessed in respect of that premium, he shall be personally liable to pay that tax.

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Persons paying tax on behalf of others to be indemnified

74. Every person answerable under the provisions of this Act for payment of tax, interest and penalties on behalf of another person may retain out of any income or other assets in his hands or from time to time coming into his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax, interest and penalties; and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance of and by virtue of this Act.

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Deduction from moneys payable to a taxpayer

75. —(1) Where any sum payable under this Act remains unpaid by the taxpayer for a period of at least 30 days from the date when such sum becomes valid and binding either under the provisions of section 62 or any other section of this Act, and where notice has been served upon such taxpayer [in the manner provided by subsection (9)] warning him that such sum has become due and payable, the Commissioner may, by notice in writing in a form to be approved by him, a copy of which shall be sent to the taxpayer to his address last known to the Commissioner, require any person to deduct such sum as may be specified in such notice, not exceeding the sum due and payable, from any amount of moneys which may, at any time within 12 months from the date of such notice, be payable or become payable to such taxpayer and requiring such person to pay such sum to the Commissioner to the credit of the taxpayer within the time specified in such notice.

(2) When any such amount of moneys includes a pension, salary, wages or other remuneration or reward payable at certain fixed intervals, the notice shall state that the sum specified shall be paid by deductions not exceeding one-fifth of the amount payable at every such interval.

(3) Any amount lawfully so deducted shall be deemed to have been deducted with the consent of the taxpayer and no action shall lie against any person merely by reason of the making of such deduction.

(4) The sum deducted from any amount pursuant to a notice under the provisions of this section shall be deemed to be held in trust for the [State], and, without prejudice to any other remedies against the debtor or any other person, shall be recoverable in the same manner in all respects as if it were tax payable by the debtor.

(5) Any person receiving such notice of deduction as aforesaid who is unable to comply therewith on account of the fact that the moneys in question do not come into his possession within the period specified in such notice shall notify the Commissioner within 14 days of the
expiration of such period, acquainting him with the facts. If the person receiving the notice is the employer of the taxpayer, he shall notify the Commissioner within 14 days if the taxpayer leaves his employment during the currency of the order.

(6)  
(a) The provisions of this section shall bind the [State]4.

(b) Any such notice of deduction in respect of any amount of moneys which are payable or may become payable to the [State]5 to any taxpayer shall be sent to the head of the appropriate department.

(7) For the purposes of subsection (1), any amount (including the penalty payable if any) referred to in [subsection (1)]6 of section [93]7 shall be deemed to be tax payable under any assessment by the person who fails to deduct or to remit or pay the amount in accordance with regulations made under the provisions of section 81 or 107 and the date upon which such person so failed to deduct or to remit or pay the amount, as the case may be, shall be deemed to be the date when such assessment becomes valid and binding.

(8) For the purposes of subsection (1), any provisional tax certified by the Commissioner as payable under the provisions of Part XII shall be deemed to be tax payable under an assessment which had become valid and binding under the provisions of section 62 by the person who fails to remit, pay or deduct the amount in accordance with Part XII. The date upon which such amount is due shall be deemed to be the date upon which such amount should have been paid, remitted or deducted under the provisions of that Part and the provisions of this section and of sections 76 and 77 shall be regarded as applicable to such amount.

(9)8 For the purposes of subsection (1), notice shall be served upon a taxpayer by—

(a) delivering, it personally to the taxpayer; or

(b) posting to the address furnished by the taxpayer under subsection (1) of section 44; or

(c) in the case of a non-resident, by delivering it personally or posting it to the agent of the non-resident,

and, where such notice has been posted, it shall be deemed to have been received by the taxpayer or his agent, as the case may be, upon the expiry of 28 days from the date of posting.

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2 Inserted by §11(a) Act 12/1982 WEF 1st January 1982
3 Reference to “State” substituted for “Crown” by §3(e) Interpretation Act (Cap. 7) WEF 7th October 1987
4 See Note 3
5 See Note 3
6 Substituted for “subsection (1)” by §9(a) Act 10/1977 WEF 1st January 1977
7 Substituted for “97” by §9(b) Act 10/1977 WEF 1st January 1977
8 Inserted by §11(b) Act 12/1982 WEF 1st January 1982

Tax a debt due to [State]1

76.2—(1) The taxes and all interest, penalties and costs assessed shall be recoverable as a debt due to [the State]3 from the person on whom it is assessed or imposed.
Recovery of tax

(2) Notwithstanding anything contained in the [State] Proceedings Act, any tax, interest, costs or penalty that may be assessed, recovered or imposed under this Act may be sued for and recovered as a debt due to [the State] in any court of competent jurisdiction by the Commissioner suing in his official name.

Taxes, etc., charge upon property

(3) Taxes, interest, costs and penalties imposed under this Act shall be [a lien] and charge upon the property, whether real or personal, moveable, or immovable, of the person liable to pay the same.

Payment by instalments

(4) At the request of the taxpayer, the Commissioner may accept from such taxpayer payment of any such amount by instalments, each instalment to be paid on or before the date specified by the Commissioner.

Extension of time for payment

(5) The Commissioner may, at any time, extend the time for payment of tax on an assessment.

(6) A charge on any real property shall be registered by the Registrar of Titles without fee against the title of the land charged upon the filing with him by the Commissioner of a memorandum under the hand of the Commissioner setting forth the description of the land so charged and the amount payable.

(7) When any such charge as aforesaid has been satisfied, the Commissioner shall deposit with the Registrar of Titles a memorandum of satisfaction and the Registrar of Titles shall, without fee, register the same against the title of the land.

(8) If any taxes, interest, costs and penalties are in arrear and constitute, by virtue of subsection (3), a charge on any property, the Commissioner may apply by petition to the [High Court] for the enforcement of the charge and the Court may make such order in the premises as it thinks just, either by sale of that property or any part thereof or for the appointment of a receiver of the rents, profits or income thereof and for the payment of the amount in arrear and the costs of the Commissioner out of the proceeds of the sale or out of the said rents, profits or income.

1 Reference to “State” substituted for “Crown” by §3(e) Interpretation Act (Cap. 7) WEF 7th October 1987
3 Reference to “the State” substituted for “Her Majesty” by §3(f) WEF 7th October 1987
4 See Note 1
5 Cap. 24
6 See Note 3
7 Substituted for “alien” by §10 Act 10/1977 WEF 1st January 1977
8 See Note 1 §69

Collection of tax by suit

77.1—(1) Where notice has been served on any person of any tax due under this Act and payment of the tax set out therein including any interest, costs or penalty has not been made by the date specified in that notice, then the amount due by such person may be sued for and
recovered as a [State]^2 debt in a court of competent jurisdiction by the Commissioner in his official name with full costs of suit from such person.

(2) In any suit under subsection (1), the production of a certificate signed by the Commissioner giving the name and address of the defendant and the amount of tax due by him shall be sufficient evidence that such amount of tax is due by such person and sufficient authority for the Court to give judgment for such amount.

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Refunds

78. ^1—(1) In respect of any assessment for any year of income, if it is proved to the satisfaction of the Commissioner by claim duly made in writing within 6 years of the end of the year of assessment that any person has paid tax in excess of the amount with which he was properly chargeable, such person shall be entitled to have refunded the amount so paid in excess:

Provided that no claims shall be admissible where a person has failed to deliver a return under subsection (1) of section 44 [and]^2 to submit a formal application for relief or refund within 3 years after the end of the year of assessment for which a refund is due, unless such refund is attributable to an error or mistake in the Commissioner’s office.

(2) Instead of making a refund which might otherwise be made under this section, the Commissioner may, where the person is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify such person of that action.

(3) Nothing in this section shall operate to extend or reduce any time limit for objection, appeal or repayment specified in any other section or to validate any objection or appeal which is otherwise invalid, or to authorise the revision of any assessment or other matter which has become valid and binding.

(4)^3 Where a refund due to a person in respect of an assessment is not made within 6 months of the date of furnishing the return of income, there shall be paid to such person, in addition to the amount of the refund due, a further sum equal to 5% per annum of the amount of the refund, calculated from the expiry of 6 months from the date of lodgement of such return to the date on which the refund is made, provided that the delay is entirely in the office of the Commissioner.

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2 Reference to “State” substituted for “Crown” by §3(e) Interpretation Act (Cap. 7) WEF 7th October 1987
3 Subsection 4 inserted by §9 Act 25/1986 WEF 1st January 1987

PART XI – PAY AS YOU EARN

Interpretation

79. ^1 For the purposes of sections 80 and 81—
“emoluments” means all salary, wages, overtime, bonus, remuneration, gratuities, including the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment whether in money or otherwise, stipend, commission, or other amounts for services, directors’ fees, retiring allowances or pension, accruing in, derived from or received in Fiji, and which are assessable to tax, but shall not include any salary or share of profits arising from a trade, business, profession or vocation carried on by any person either by himself or in partnership with any other persons;

“employment” means the position of an individual in the service of some other person, including the [State], and shall include an office or a position entitling the holder thereof to a fixed or ascertainable stipend or remuneration, and includes any other office the holder of which is elected by popular vote or is elected or appointed in a representative capacity and also includes the position of a director of a company.

2 Reference to “State” substituted for “Crown” by §3(e) Interpretation Act (Cap. 7) WEF 7th October 1987

Assessment charge on emoluments

80. Notwithstanding any other provisions of this Act, on the making of any payment of or on account of any emoluments, tax shall, subject to and in accordance with the regulations made by the Minister under the provisions of section 81, be deducted by the person making the payment, notwithstanding that, when the payment is made, no assessment has been made in respect of those emoluments and notwithstanding that such emoluments may be, in whole or in part, emoluments of some year other than the year during which the payment is made:

Provided that, if any question arises as to whether any emoluments are or are not emoluments within the meaning of section 79, such question shall be determined by the Commissioner, and the provisions of this Act relating to objections and appeals shall apply to any determination of the Commissioner under this section.


Regulations

81.—(1) The Minister shall make regulations with respect to the assessment, charge, collection, recovery and repayment of tax in respect of all emoluments and such regulations may, in particular, include provision—

(a) for requiring any person making any payment of, or on account of, any such emoluments, when he makes the payment, to make deduction of tax calculated by reference to tax tables prepared by the Commissioner and for rendering persons who are required to make any such deductions accountable to the Commissioner. The said tax tables shall be constructed with a view to securing that, as far as possible, the total tax payable in respect of any emoluments for any year is deducted from the emoluments paid during that year;

(b) for the production to, and inspection by, the Commissioner, or any officer authorised by him in writing upon the production of his written authority, of wages sheets and other documents and records for the purpose of satisfying the Commissioner that
(c) for the collection and recovery, whether by deduction from income paid in any later year or otherwise, of tax in respect of emoluments to which this Act applies which has not been deducted or otherwise recovered during the year;

(d) for the making of assessments in respect of emoluments and for other matters dealing with the recovery of underpayments or the refund of overpayments arising therefrom and for ignoring any amount of less than $2 in the amounts so ascertained of any underpayments to be recovered or overpayments to be refunded and for the manner in which amounts of excess tax are to be refunded under the provisions of section 78;

(e) for appeals with respect to matters arising under the regulations which would not otherwise be the subject of an appeal; for the charging of fees on the issue of duplicate exemption cards and other documents,

and any such regulations shall have effect notwithstanding anything in this Act contained:

Provided that such regulations shall not affect any right of appeal which any person would otherwise have apart from the regulations.

(2) Any regulations made under the provisions of subsection (1) may prescribe in respect of any contravention of or failure to comply with any provision thereof, on conviction, a fine not exceeding $2,000 or to imprisonment not exceeding 1 year or to both such fine and imprisonment.

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2 Substituted for “$200” by §12(a) Act 21/1982 WEF 1st January 1982
3 Substituted for “3 months” by §12(b) Act 21/1982 WEF 1st January 1982

**Amounts deducted to be held in trust for the State**

82. All amounts deducted by any person pursuant to the provisions of any regulations made under the provisions of section 81 and 107 shall be deemed to be held in trust by such person for the State and shall not be subject, to attachment in respect of any debt or liability of the said person and in the event of any liquidation, assignment or bankruptcy the said amounts shall form no part of the estate in liquidation, assignment or bankruptcy but shall be paid in full to the Commissioner before any distribution of the property is made.

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1 Reference to “State” substituted for “Crown” by §3(e) Interpretation Act (Cap. 7) WEF 7th October 1987
3 See Note 1

**PART XII – PROVISIONAL TAX**

*Payment of taxes by instalments*

83. For the purpose of enabling the tax payable by persons to whom this section applies to be collected during the year for which the tax is levied, a person, other than a company deriving income (other than income from emoluments as defined in section 79), shall be liable to pay provisional tax as is hereinafter provided.
The provisions of this section shall not apply to any person whose income is derived wholly or mainly from primary industry, or to any other class of person, in respect of whom the Commissioner may, in his discretion, consider an alternative type of provisional tax scheme more appropriate.

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**Ascertainment of provisional tax payable**

**84.**—(1) Subject to the provisions of section 85, the amount of provisional tax payable by a person in respect of the income of an income year shall be ascertained as follows:—

(a) for each year the amount of provisional tax payable by each person to whom these provisions shall apply shall be an amount equal to the tax assessed in respect of the income of the immediately preceding income year, less the amount of any tax which was deducted in accordance with the provisions of section 80 from any emolument income included in the total income of that person for that preceding year:

Provided that, in any case where the amount of tax in respect of the immediately preceding income year has not been assessed by the date set down in subsection (1) of section 85 for payment of any instalment, the amount of the instalment which then becomes payable shall be based upon the amount of provisional tax payable in respect of the immediately preceding income year. Any underpayment or overpayment of any instalment of provisional tax which arises in these circumstances shall be adjusted upon payment of the next instalment of provisional tax;

(b) in any case where a person commenced, during the year immediately preceding the income year, to derive income from any source, the amount of provisional tax payable by that person shall be an amount as estimated by the Commissioner and notified to that person.

(2) Where any person to whom the provisions of subsection (1) of section 83 apply estimates that the income to be derived by him in the income year will be less by more than 10 per cent than the income derived by him in the next preceding year, that person may apply to the Commissioner stating fully the reasons supporting his application to have the amount of the provisional tax to be paid based on such reduced estimate of income and the Commissioner may, having regard to the circumstances of the case, agree to the adoption of that basis. Such application may be made at any time before payment of the third instalment of provisional tax.

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**When provisional tax payable**

**85.**—(1) Provisional tax due by any person in respect of the income of any year shall be payable in three instalments on 30 April, 31 August and 30 November in that year and the amount of each instalment shall be one-third of the amount ascertained in accordance with the provisions of section 84:

Provided that, where the Commissioner has agreed to the reduction in the amount of provisional tax payment in any year before the payment of the second and third instalments or
after the payment of the second instalment and before the payment of the third instalment, the amount payable on those instalments shall be varied accordingly.

(2) Where the amount of provisional tax payable by a person is less than $20 then payment shall be made in 1 amount on or before 31 August.


Additional tax where provisional tax underestimated

86. 1—(1) Where, in accordance with the provisions of subsection (2) of section 84, the Commissioner has accepted from any person an estimate of income as the basis of payment of provisional tax and that estimate proves to be less than 80 per cent of the actual income derived during the income year, that person shall, subject to the provisions subsection (2), be liable to pay to the Commissioner, by way of additional tax, an amount equal to 10 per cent of the difference between—

(a) the amount of tax calculated on 80 per cent of his actual income for the year; and

(b) the amount of tax calculated on the basis of the full amount of the aforesaid estimate:

Provided that, where emolument income is derived in that year, any deductions made therefrom in accordance with the provisions of section 80 shall be deducted from (a) and (b).

(2) Where the Commissioner is satisfied that any person has become liable to pay additional tax under this section by reason of his income for that year being affected by circumstances of which he was not or could not reasonably have been aware at the time of making the estimate referred to in subsection (2) of section 84, the Commissioner may, in his discretion, remit the additional tax or any part thereof.

(3) Additional tax payable under this section shall, for all purposes, be deemed to be of the same nature as the tax that is assessed to the taxpayer in respect of the income of the income year and shall be recoverable accordingly and the provisions of sections 75, 76 and 77 shall apply thereto.


Special circumstances

87. 1 Notwithstanding anything to the contrary in this Act, the Commissioner may, to meet the special circumstances of any case or class of case and subject to such terms and conditions as he, in his discretion, requires, reduce the amount of any provisional tax otherwise payable by any person or make such adjustment as in his opinion is equitable.


Voluntary payments of additional provisional tax

88. 1 Any person may, at his option, at such time or times and of such amounts as he thinks fit, make voluntary payments to the Commissioner by way of additional provisional tax, being either—
(a) amounts in excess of provisional tax payable by him in respect of the income of the income year; or

(b) amounts in respect of an income year where no provisional tax is payable by him in respect of that year.


Provisional tax payments for farmers, etc.

89. — (1) For the purpose of assisting persons whose income is derived wholly or mainly from primary industry to make provisional payment during the course of the year in respect of tax which will become payable upon the income of that year, the Commissioner shall make such arrangements as he considers appropriate, which may include the deduction at source of instalments from proceeds of the sale of primary produce.

(2) For the purpose of facilitating the making of such arrangements, the Commissioner is authorised to nominate, at his discretion, the person who shall be responsible for making the deduction at source of the instalments to be paid in respect of provisional tax and the person so nominated is hereby required to make and to account for such deductions in such manner as the Commissioner shall require.

(3) Any person who is required by the Commissioner to make such deductions and who fails so to do in the manner required shall be guilty of an offence and shall be subject to the like penalties as are set out in section 93.

(4) The provisions of sections 61 and 87 shall apply to persons whose provisional tax payments are arranged under the provisions of this section.

(5) Any amount lawfully deducted under any arrangement made under the provisions of this section shall be deemed to have been deducted with the consent of the taxpayer and no action shall lie against any person merely by reason of the making of such deductions.


Extension of time for payment of provisional tax

90. — (1) The Commissioner may, having regard to the circumstances of the case, extend the period within which any amount of provisional tax is to be paid, or may agree to accept payment of any such amount by instalments.


Advance payment of tax by companies

91. — (1) Every company shall make to the Commissioner advance payments on account of tax to be assessed in accordance with the provisions of section 55 upon the income of its fiscal year in the following manner, namely:—
(a) not later than the last day of its fiscal year, [33\%] 2 per cent of the amount of tax which it estimates will be payable upon the income of that company for that fiscal year; and

(b) within 3 months after the last day of its fiscal year, [66\%] 3 per cent of the amount of tax estimated as aforesaid less the amount paid in terms of paragraph (a).

(2) 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).

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 50 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 50 per cent of the liability to tax as finally assessed.

(2) 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.

PART XIII – OFFENCES AND PENALTIES

Penalties, etc.

93.—(1) If any person shall fail—

(a) to deduct any amount required to be deducted by him under section 8, 9, [9A], 10 or [10A] or under the regulations made pursuant to the provisions of section 81 or 107; or

(b) to remit or pay to the Commissioner, or as the Commissioner should so direct, any amount which has been deducted by him under sections 8, 9, [9A], 10 or [10A] or under the regulations made pursuant to the provisions of sections 81 and 107 by such date or dates as may be prescribed by those sections or regulations, such person shall be liable to pay every such amount to the Commissioner and, in addition, shall be liable to a penalty of 25 per cent of each such amount or $2 whichever is the greater sum, unless the Commissioner otherwise directs, and every such amount and every such penalty shall be payable as if the same were tax payable by such person on the date when such...
amount was required to be deducted, remitted or paid, as the case may be, and the provisions of sections 75, 76 and 77 shall apply thereto; and any person so failing as aforesaid shall be guilty of an offence and shall be liable, on conviction, to a fine of [$2,000] or to imprisonment for [1 year] or to both such fine and imprisonment in respect of each such offence.

(2) If any person fails to deliver personally or send by post any certificate, form or other document, account or return within such time or times as may be prescribed by section [9A or] 54 or by regulations made under the provisions of section 81 or 107, he shall be guilty of an offence and liable, on conviction therefor, to a fine of $10 for every day during which such failure shall continue:

Provided that it shall be a good and sufficient defence to any complaint brought under this subsection that any such failure was not due to the neglect or default of the defendant or of any person acting on his behalf.

Penalty for not making return

94.1 Every person required to make a return under the provisions of section 44 who fails to make a return within the time limited therefor shall be subject to a penalty of 50 per cent of the amount of the tax payable, and every other person who is required to make a return under the provisions of section 44, 45, 46 or 47 who fails to do so within the time limited therefor shall be subject to a penalty of $10 for each day during which the default continues, and all such penalties shall be assessed and collected from the person liable to make a return in the same manner in which taxes are assessed and collected.

Penalty for understating income or making a false claim to a deduction allowance or relief

95.1—(1) Any person liable to pay any tax under this Act who makes or causes or permits to be made on his behalf a return on which the income is stated to be less than the true amount shall pay to [the State] the additional amount of tax due and, in addition, interest at the rate of 10 per cent per annum upon such amount from the last day prescribed for making such return until the same is paid. If the amount of the income omitted from his return exceeds 10 per cent of the correct income, but is under 20 per cent of the same, such person shall pay to [the State] an additional amount equal to one-half of the amount of such deficiency, and, if the deficiency amounts to 20 per cent or more of the correct income, such person shall pay to [the State] an additional amount equal to the amount of such deficiency. The penalties specified in this section are additional penalties and not in lieu of any penalty that may be imposed under the provisions of section 96. All penalties and interest under this subsection shall be assessed and collected from the person liable therefor in the same manner in which tax is assessed and collected.
(2) Any person liable to pay any tax under this Act who makes, or permits to be made on his behalf, a false statement in a claim for allowances, deductions and reliefs under any section of this Act, shall pay to [the State] the additional amount of tax due and, in addition, interest at a rate of 10 per cent per annum upon such amount from the last date prescribed for making such return until the same is paid. If the amount of the claim for allowances, deductions and reliefs from his return exceeds 10 per cent of the correct allowances, deductions and reliefs, but is under 20 per cent of the same, such person shall pay to [the State] an additional amount equal to one half of the amount of such excessive allowances, deductions and reliefs and, if the excessive allowances, deductions and reliefs amount to 20 per cent or more of the correct allowances, deductions and reliefs, such person shall pay to [the State] an additional amount equal to the amount of such allowances, deductions and reliefs. The penalties specified in this subsection are additional penalties and not in lieu of any penalty that may be, imposed under the provisions of section 96. All penalties and interest under this subsection shall be assessed and collected from the person liable therefor in the same manner in which tax is assessed and collected.

(3) For the purpose of subsection (1), “income” means total income before any deductions in terms of section 21(1)(h), section 22 and section 105.

Penal provisions

96.1—(1) For every default in complying with the provisions of section 50 or 109 the persons in default shall each be liable to a fine not exceeding $40 for each day during which the default continues.

(2) Any person who wilfully with intent to evade or to assist any other person to evade any tax imposed by this Act—

(a) omits from a return made by him or on his behalf under this Act any income which should be included; or

(b) makes any false statement or entry in any return or claim to allowances, deductions and reliefs made by him or on his behalf under this Act; or
(c) gives any false answer, whether orally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act; or

(d) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or

(e) makes use of any fraud, art or contrivance whatsoever or authorises the use of any such fraud, art or contrivance; or

(f) makes or furnishes a declaration which may be filed under any regulation made in accordance with the provisions of section 81 knowing or having reasonable cause to believe the same to be false,

shall be guilty of an offence and shall for each such offence be liable to a fine of $400 and treble the amount of tax for which he is liable under this Act for the year of assessment in respect of or during which the offence was committed, or to imprisonment for 6 months or to both such fine and imprisonment. The Commissioner may compound any offence under this subsection and may before judgment stay or compound any proceedings thereunder.

(3) Any person who contravenes the provisions of section 54J or 54K shall be guilty of an offence and shall be liable, on conviction, to a fine or $200 or to imprisonment for 6 months or to both such fine and imprisonment.


Penalty for non-payment

97.1—(1) If any person fails to pay any tax on an assessment or any instalment thereof [on or] before the date when such amount or instalment should be paid, he shall pay in addition to any other penalties, a penalty of $2 or one-quarter of the amount of tax unpaid, whichever is the greater sum.

(2) (a) Any person who receives a notice of deductions under subsection (1) of section 75 from the Commissioner and without lawful excuse—

(i) fails to comply with the provisions therewith;
(ii) fails to notify the Commissioner within 14 days of the expiration of the period specified in the notice of deduction acquainting him with the facts; or
(iii) fails to notify the Commissioner within 14 days of the taxpayer leaving his employment,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding $100;

(b) without prejudice to the meaning of the words “lawful excuse” in this subsection, these words shall include the inability to pay any amount specified in such notice of deduction on account of the fact that such amount does not come into the possession of the person receiving such notice within the time specified therein, and, in the case of a person carrying on business at more than 1 branch in Fiji, shall also include any failure to deduct, where payment to a taxpayer in respect of whom a notice under this section has been issued, is properly made by a branch other than that through which the payment would normally be expected to be made and the Commissioner has not served a copy of the notice of deduction on that branch;
(c) for the purposes of subsection (1) of section 75, and of this section, “tax” shall also include interest and penalties properly imposed under this Act and also costs.

Penalty for failing to appoint an authorised officer of a company

98.1 Every company required to appoint an authorised officer, when and as often as such appointment becomes necessary as required by section 41, shall be subject to a penalty of $4 for each day during which the default continues, and all such penalties shall be assessed and collected from the company liable to make the appointment in the same manner in which taxes are assessed and collected.

Provisional tax – penalty for late payment

99.1—(1) If any person fails to pay the amount of provisional tax or any instalment thereof by the times required by the provisions of section 85 or within such extended time as may be granted by the Commissioner, then such person shall pay, in addition to any other penalties, a penalty of $2 or one-quarter of the amount unpaid, whichever is the greater sum, and such penalty shall be assessed and recovered in the same manner as tax.

Advance payment by companies

(2) If any company shall fail to make payment of tax in advance, in accordance with the provisions of sections 91 and 92, then it shall be liable to the like penalty as that to which it would have been liable if 25 per cent of the tax as finally assessed upon the income for that fiscal year had become due and payable on the last day of its fiscal year and 50 per cent had become due and payable 3 months after the end of its fiscal year and either or both amounts had not then been paid.

(3) Any person who—
(i) obstructs or refuses to permit the entry of the Commissioner or any officer authorised by him upon any land, building or place for the purpose of any inspection under subsection (5) of section 50;
(ii) obstructs the Commissioner or any officer authorised by him when carrying out such inspection;
(iii) refuses to produce any book or document in his custody or control on being so required by the Commissioner or any officer authorised by him for the purpose of any such inspection;
(iv) fails to give reasonable assistance to the Commissioner or any officer authorised by him in any such inspection upon being required so to do; or
(v) refuses to answer any proper question relating to such inspection, shall be guilty of an offence and, upon conviction, shall be liable to a fine not exceeding $100:

Provided that a person shall not be convicted both under this subsection and under section 96 in respect of the same facts.


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Penalty for failing to appoint an authorised officer of a company

98. Every company required to appoint an authorised officer, when and as often as such appointment becomes necessary as required by section 41, shall be subject to a penalty of $4 for each day during which the default continues, and all such penalties shall be assessed and collected from the company liable to make the appointment in the same manner in which taxes are assessed and collected.

Provisional tax – penalty for late payment

99. (1) If any person fails to pay the amount of provisional tax or any instalment thereof by the times required by the provisions of section 85 or within such extended time as may be granted by the Commissioner, then such person shall pay, in addition to any other penalties, a penalty of $2 or one-quarter of the amount unpaid, whichever is the greater sum, and such penalty shall be assessed and recovered in the same manner as tax.

Advance payment by companies

(2) If any company shall fail to make payment of tax in advance, in accordance with the provisions of sections 91 and 92, then it shall be liable to the like penalty as that to which it would have been liable if 25 per cent of the tax as finally assessed upon the income for that fiscal year had become due and payable on the last day of its fiscal year and 50 per cent had become due and payable 3 months after the end of its fiscal year and either or both amounts had not then been paid.

(3) Any person who—
(i) obstructs or refuses to permit the entry of the Commissioner or any officer authorised by him upon any land, building or place for the purpose of any inspection under subsection (5) of section 50;
(ii) obstructs the Commissioner or any officer authorised by him when carrying out such inspection;
(iii) refuses to produce any book or document in his custody or control on being so required by the Commissioner or any officer authorised by him for the purpose of any such inspection;
(iv) fails to give reasonable assistance to the Commissioner or any officer authorised by him in any such inspection upon being required so to do; or
(v) refuses to answer any proper question relating to such inspection, shall be guilty of an offence and, upon conviction, shall be liable to a fine not exceeding $100:

Provided that a person shall not be convicted both under this subsection and under section 96 in respect of the same facts.

Limitation of proceedings

100.1—(1) Proceedings for an offence under this Act may be instituted within 3 years after the final determination of the amount of tax covered by the assessment.

(2) Save in respect of the penalty imposed by a Court under the provisions of section 96, the Commissioner may, in his discretion, mitigate or remit any penalty which may be assessed, recovered or imposed under this Act.


PART XIV – REBATES FROM TAX CHARGED

Home ownership savings account

100A.1—(1) There shall, in the case of a resident individual who in any year operates a home ownership savings account, be deducted from the amount of tax payable under section 7 a rebate of income tax for that year of income equivalent to 12% per cent for every complete dollar of any increase in savings in that account in relation to that year of income. The maximum rebate for any year of income shall be $125 or the amount of normal tax payable, whichever is the less:

Provided that only 1 rebate shall be due where an election is made under section 43 for separate assessments.

(2) A rebate given under this section shall be withdrawn if, in any year of income, there is a decrease in savings in relation to the immediately preceding year.

(3) The Minister shall make such regulations as he considers necessary in relation to the operation of home ownership savings accounts and such regulations may, in particular, include provision for—

(a) the maximum amount of saving that will be subject to rebate in any year of income;
(b) the aggregate amount of savings which will be eligible for a rebate;
(c) the manner in which any increase of decrease in savings will be determined for each year of income;
(d) the nomination of financial institutions which may operate home ownership savings accounts;
(e) the circumstances and the manner in which a rebate given under this section may be withdrawn.

(4) For the purposes of this section, “home ownership savings account” means a savings account under that name with a financial institution authorised to operate such accounts in terms of regulations made under section (3).

1 Inserted by §13 Act 21/1980 WEF 1st January 1980
Rebates, normal tax – general rebate

101.1 ... 2


2 Repealed by §14 Decree 30/1992 WEF 1st July 1992 – previously read:

"101. Save as is otherwise provided in this Act there shall, in the case of an individual, be deducted from the amount of tax payable under section 7 a sum of $255 which shall be called a general rebate."

Substituted by §4 Decree 54/1991 WEF 1st January 1991 – previously read:

"101. Save as is otherwise provided in this Act there shall, in the case of an individual, be deducted from the amount of tax payable under section 6 and section 7 a sum of $70 which shall be called a general rebate."


"101. Save as is otherwise provided in this Act, there shall, in the case of an individual ..., be deducted from the amount of tax payable under section 7 a sum of [$70] which shall be called a general rebate:

Provided that—

(a) where the taxpayer is a married person who has elected separate assessment under the provisions of section 43, the general rebate shall be apportioned between husband and wife on the same basis as that elected under paragraph (c) of subsection (2) of that section and a separate general rebate shall not be due to the wife;

(b) where a taxpayer has been divorced or separated under an order of court of competent jurisdiction, or under a written agreement or in such circumstances that the separation is likely to be permanent, the rebate shall be granted to each spouse with effect from the effective date of the order, agreement or separation;

(c) the Commissioner may apportion the rebate due to a taxpayer so that, in the case of a change of circumstances in any year, no more than, $30 shall be granted to any taxpayer:

Provided that nothing in this paragraph shall prevent a single woman or a widow from receiving the fixed amount of the rebate for the year in which she is married as a deduction from the tax payable notwithstanding that she may be entitled to a part of the rebate for the same year in respect of her income derived or accrued from the date of marriage;

(d) in the case of a non-resident individual, the rebate shall be apportioned in the same manner as allowances under the proviso to section (1) of section 31."

Allowance for double taxation relief

102.1 The tax chargeable in respect of income derived outside Fiji by a resident shall be abated or exempted as follows:—

(a) in respect of income derived from a territory with arrangements have been made regarding relief from double taxation, relief shall be given in accordance with that arrangement;

(b) in respect of income derived from a territory with arrangements have not been made regarding relief from double taxation, such income shall be exempt from tax to the extent that it is chargeable with income tax in that other territory:

Provided that—

(i) the taxpayer shall furnish evidence satisfactory to the Commissioner showing the amount of tax paid and the particulars of income;

(ii) such income not be exempt if, under the law of that other territory, tax is deducted therefrom at source but such person has the right thereafter of making a return of that income and being assessed to tax thereon with relief in proper circumstances for the whole or any part of the tax already deducted at source and he does not exercise that right; and a certificate purporting to be signed by an officer of the Taxation Department of that other territory shall be prima facie evidence that such a right exists and of the exercise or non-exercise thereof by the taxpayer.
Extent of relief under Double Taxation Agreement

103.1—(1) Notwithstanding the provisions of any agreement entered into by the Government of Fiji and any other territory, the relief granted by section 102 shall be subject to the following provisions:—

(i) relief shall only be granted to persons who are resident in Fiji for the year of assessment;

(ii) credit shall not be allowed by virtue of section 102 for overseas tax on a dividend unless the overseas tax is directly charged on the dividend, whether by charge to tax, deduction of tax at source or otherwise and the whole of it represents tax which neither the company nor the recipient would have borne if the dividend had not been paid;

(iii) the amount of the credit for overseas tax which is to be allowed to a person against income tax for any year of assessment shall not exceed the difference between the amounts of income tax which would be borne by him for the year (no credit being allowed for overseas tax)—

(a) if he were charged to tax on his total income, computed in accordance with this Act; and

(b) if he were charged to tax on the same income, computed in the same way but excluding the income in respect of which the credit is to be allowed.

Where credit for overseas tax is to be allowed in respect of income from more than 1 source, this basis shall be applied successively to the income from each source but so that, on each successive application, paragraph (a) shall apply to total income exclusive of the income to which this paragraph has already been applied;

(iv) where credit is to be allowed against the Fiji tax payable in respect of the overseas tax, such overseas tax, whether payable directly or by deduction on profit or income, from sources within the overseas territory (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid), shall be computed by reference to the same profits or income by reference to which the overseas tax is computed;

(v) notwithstanding anything contained in this Act or in any agreement entered into by the Minister under section 106, “credit”, for the purpose of this section, shall not exceed the lesser of the following amounts:—

(a) the amount of Fiji tax payable on the same overseas income which is appropriate to the income which has been charged to tax in the overseas territory for the same year; or

(b) the amount of overseas tax payable on the same overseas income which is appropriate to the income which has been charged to tax in Fiji for the same year;

(vi) the Commissioner may satisfy himself regarding the amount of overseas tax paid or deducted by demanding production of any relevant notices of assessment or other confirmatory evidence.
For the purpose of this section “overseas tax” means tax under the law of a territory outside Fiji.

Rebate of withholding tax

104.1—(1) The tax chargeable on any royalties, know-how, management, supervision or other payments falling within [paragraphs (s) and (u)\(^2\)] of the proviso to section 11 derived or accrued in Fiji to a non-resident shall be abated by any withholding tax paid under the provisions of [section 8 or section 10A\(^3\)] in respect of the same income.

(2) The tax chargeable on any interest or dividends derived … 4 or accrued in Fiji shall be abated by any interest withholding tax or dividend tax paid under the provisions of section 9 [or section 9A\(^5\)] or 10 respectively in respect of the same income.

(3) The dividend tax to be allowed as a rebate under this section against tax chargeable in respect of the same dividend income shall be limited to the dividend [tax on the dividend]\(^6\) income included in the chargeable income of the individual on whom the income is assessed.

(4) Notwithstanding the other provisions of this Act, where a dividend received before 1 January 1974 by a resident company from another resident company has borne tax in accordance with paragraph (a) of subsection (2) of section 14 of the Ordinance\(^7\) repealed by this Act and such resident company declares a dividend on or after that date out of profits consisting of or including such taxed dividends (whether received by it directly or derived through another company in the form of a dividend), then, to the extent to which that dividend consists of or includes such taxed dividend, the dividend shall, if paid or credited either to a resident shareholder … 8 in Fiji [or] 9 to a non-resident shareholder, be taxed under sections 10 or 8 respectively of this Act after taking into account any tax deducted and paid under the above-mentioned provisions of the Ordinance\(^10\) repealed by this Act, but so that such credit shall not exceed 5 per cent of the amount of the taxed dividend received. A company shall keep adequate records so as to permit verification of such credit claimed.

Allowances under the Hotels Aid Act

105.2—(1) Notwithstanding anything in the Hotels Aid Act\(^3\), where a project has been completed and under that Act if, instead of a subsidy, a hotel owner has opted to claim investment allowance under section 6 of such Act and such deduction exceeds the total income from the hotel business [or the total income from that hotel premises]\(^4\) for the period ended on the next accounting date after the project has been completed, the balance shall be carried forward and offset against the total income of that hotel business [or the total income from that hotel premises]\(^5\) for the next successive fiscal years:
Provided that—

**Hotels Aid Remission**

(a) relief under this section shall be granted in terms of the tax assessed and shall be termed “Hotels Aid Remission” and shall be separately accounted for by the Commissioner;

(b) no relief under this section shall be available against profits arising from any trade or business or other income other than the profits of that hotel or extension thereto in respect of which the project has been approved;

(c) in the case of an extension, the remission referred to in paragraphs (a) and (b) shall not be available against profits arising other than from the extension. Profits from the hotel and the extension thereto, being the project in respect of which a deduction is due, shall be apportioned on the basis of the number of bedrooms in the extension to the whole or on any other basis which the Commissioner may determine;

(d) where, at the end of the period of 5 years following the year in which the extension was completed, any investment allowance in respect of the extension has not been claimed as a remission of tax, the amount of such unclaimed investment allowance may be set off by a hotel owner against total income arising to him from any hotel business or total income from any hotel premises owner by him;

(e) where the hotel owner is a company, no investment allowance shall be granted if, in any year, the Commissioner is satisfied that the shareholders of the company are not substantially the same as on the date on which provisional approval was granted, unless prior approval from the Minister for the changes of shareholders has been obtained.

(2) For the purposes of this section—

(a) the shareholders of a company at any date shall be deemed not to be substantially the same as the shareholders on any other date unless, on both those dates, not less than 30 per cent of the voting power in and the right to receive dividends from the company was held by or on behalf of the same persons, nor unless, on both those dates, not less than 30 per cent of the nominal value of the allotted shares in the company were held by or on behalf of the same persons. Shares in a company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company and shares held by or on behalf of the trustee of the estate of a deceased shareholder, or by or on behalf of the persons entitled to those shares as beneficiaries in the estate of a deceased shareholder, shall be deemed to be held by that deceased shareholder;

(b) the following words:—

“extension”; “hotel owner”; and “project”,

shall have the meanings as are assigned to them respectively in the Hotels Aid Act.
PART XV – MISCELLANEOUS

Prevention of or relief from double taxation

106.1—(1) The Minister may enter into an agreement2 with the Government of any other country or territory whereby arrangements are made with such Government with a view to the prevention, mitigation or discontinuance of the levying under the laws of Fiji and of such other country or territory, of income tax in respect of the same income, or to the rendering of reciprocal assistance in the administration of, and the collection of taxes under, the income tax laws of Fiji and of such other country or territory.

(2) Without limiting the generality of the foregoing provisions, it is hereby declared that any arrangements to which effect is given under this section may contain provisions in relation to any of those taxes—

(a) for relief from tax;

(b) for charging the income derived from any sources in Fiji to persons not resident in Fiji;

(c) for determining the income to be attributed to persons not resident in Fiji and other agencies, branches, or establishments in Fiji;

(d) for determining the income to be attributed to persons resident in Fiji who have special relationships with persons not so resident.

(3) Any such arrangements may include provisions for relief from tax for periods before 1 January 1974 or before the making of the arrangements, and provisions as to income which is not itself subject to double taxation.

(4) As soon as may be after the conclusion of any such agreement, the arrangements thereby made shall be notified by the Minister in the Gazette whereupon, until revoked, the arrangements notified therein shall, so far as they relate to immunity, exemption or relief in respect of income tax in Fiji, have effect as if enacted in this Act but only if and for so long as such arrangements, in so far as they relate to immunity, exemption or relief in respect of income tax levied or liable in such other country or territory, have the effect of law in such other country or territory.

(5) The Minister may, at any time, revoke any such notification in the Gazette and whereupon the arrangements thereby notified shall cease to have effect [from such date as may be appropriate under the terms of such agreement]3, but the revocation shall not affect the validity of anything previously done.
(6) The obligation as to secrecy imposed by section 4 shall not prevent the disclosure to any authorised officer of the Government of the country or territory with which the arrangements are made by virtue of this section of such information as is required to be disclosed under such arrangements.

3 Substituted for “upon the date fixed in such revocation” by §16 Act 10/1975 WEF 1st January 1975

Regulations

107.1—(1) The Minister shall be empowered to make regulations with respect to—

(a) the assessment, charge, collection, recovery and repayment—
  (i) of [basic tax] on all total income; and
  (ii) of provisional tax,
  as provided for in this Act; and

(b) any other matters deemed necessary for carrying this Act into effect, such regulations may, in particular, include provision—
  (i) for making, in any case or class of case, special arrangements to facilitate the deduction, collection or payment of tax and for making rules to govern the operation of such arrangements;
  (ii) for the production to and inspection by the Commissioner (or any officer authorised by him in writing upon the production of his written authority) of all necessary records and documents for the purpose of satisfying the Commissioner that tax has been and is being properly accounted for in accordance with the regulations;
  (iii) for the collection and recovery whether by deduction from income derived in any later year or otherwise of tax in respect of income to which this Act applies which has not been accounted for during the year;
  (iv) for the making of assessments and for other matters dealing with the recovery of underpayments or the refund of overpayments arising therefrom and for ignoring odd cents in the amounts so ascertained of any underpayments to be recovered or overpayments to be refunded and for the manner in which amounts of excess tax are to be refunded under the provisions of section 78;
  (v) for appeals with respect to matters arising under the regulations which would not otherwise be the subject of an appeal,

and any such regulations shall have effect notwithstanding any other provisions of this Act:

Provided that such regulations shall not affect any right of appeal which any person would otherwise have apart from the regulations.

(2) Any regulations made under the provisions of subsection (1) may prescribe in respect of any contravention of or failure to comply with any provisions thereof, on conviction, the like penalties as are provided for under section 81.

2 §6—repealed by §3 Decree 30/1992 WEF 1st July 1992
Contracts for avoidance of tax

108. Every contract, agreement or arrangement made or entered into, orally or in writing, shall, so far as it has or purports to have the purpose or effect of in any way, directly or indirectly—

(a) altering the incidence of any tax;
(b) relieving any person from liability to pay any tax or make any return;
(c) defeating, evading or avoiding any duty or liability imposed on any person by this Act; or
(d) preventing the operation of this Act in any respect,

be absolutely void, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.


Books of account

109.—(1) If a taxpayer fails or refuses to keep adequate books or accounts for tax purposes, the Commissioner may require the taxpayer to keep such records and accounts as he may prescribe.

(2) Every taxpayer carrying on any trade, business or profession shall keep or cause to be kept proper books of account sufficient to record all transactions necessary in order to ascertain the profit or gain made or the loss incurred in each such trade, business or profession.

(3) Every book of account and every document including vouchers, invoices and receipts which are essential to explain any entry in such book of account relating to such trade, business or profession shall be preserved for a period of not less than 7 years after the end of the income year to which such books of account or documents relate:

Provided that—

(a) the requirement for the preservation of any book of account or document may be dispensed with—

(i) if the Commissioner gives written notice to any person to whom subsection (2) applies that its preservation is not required; or
(ii) in the case of a company which has gone into liquidation and has been finally dissolved or in the case of the cessation of a business other than 1 carried on by a company, on the expiration of 3 months from the date on which the person having custody of the books of account or documents relating to such company or business, as the case may be, informs the Commissioner by registered letter that he proposes to destroy them and the Commissioner does not issue any directions for their preservation;

(b) the provisions of this paragraph shall apply to all books of account and documents kept in accordance with the provisions of subsection (2) after 23 December 1963 and to all such records relating to that trade, business or profession in existence at that date.
(4) For the purposes of [subsection (2)]², a taxpayer shall be deemed not to have kept or caused to have been kept proper books of account, if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade, business or profession, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealing in goods, statements of annual stock-takings and accounts of all goods sold and purchased.

² Substituted for “this subsection” by §18(f) Act 24/1976 WEF date of publication in the Gazette

Approved funds

110.¹—(1) The Commissioner may approve any superannuation fund, superannuation scheme, pension or provident fund or retiring plan for the purposes of this Act, if he is satisfied that—

(a) the fund, scheme or plan is bona fide established under irrevocable trusts in connection with some trade or undertaking carried on in Fiji by a person residing therein;

(b) the fund, scheme or plan has, as its sole purpose, the provision of annuities or lump sums for all or any of the following persons in the events respectively specified, that is to say, for persons employed in the trade or undertaking, either on retirement or at a specific age, or on becoming incapacitated at some earlier age, or for the widows, children or dependants of persons who are or have been so employed, on the death of those persons; and

(c) the employer in the trade or undertaking is a contributor to the fund, scheme or plan:

Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the approval, approve a fund, scheme or plan or any part of a fund, scheme or plan—

(i) notwithstanding that the rules of the fund, scheme or plan provide for the return in certain contingencies of contributions paid to the fund, scheme or plan; or

(ii) if the main purpose of the fund, scheme or plan is the provision of such annuities or lump sums as aforesaid, notwithstanding that such provision is not its sole purpose; or

(iii) notwithstanding that the trade or undertaking in connection with which the fund, scheme or plan is established is carried on only partly in Fiji and by a person not residing therein.

(2) (a) Where there is any alteration to the instrument establishing any approved fund or to any regulations relating to any such fund, then the trustees of the fund shall, prior to the making thereof, inform the Commissioner in writing of the proposed alteration; and, if the Commissioner is not so informed, the approval of such fund shall be deemed to have been withdrawn from the date of such alteration, unless the Commissioner is satisfied that the alteration is of such a nature as not to affect his approval under subsection (1).

(b) The Commissioner may, at any time, by notice in writing to the trustees of the fund, withdraw his approval of any approved fund, if, in his opinion—
(i) the conditions on which the approval of such fund was granted have not been complied with; or
(ii) there has been any alteration to the instrument establishing such fund or to any regulations relating to any such fund.

(c) Paragraphs (a) and (b) shall apply to all funds, whether approved by the Commissioner under the provisions of this section or heretofore declared by the Minister to be approved funds.

(3) The Commissioner may approve any fidelity guarantee fund for the purposes of this Act, subject to such conditions as he may think fit.

(4) The Commissioner may approve any superannuation fund, superannuation scheme, pension or provident fund or retiring plan operated by any Government, or by any quasi-Government body or local authority of another territory within the Commonwealth for the purposes of this Act, subject to such conditions as he may think fit.


Audit

111.—(1) The accounts of the receipt of revenue under this Act shall be examined by the Auditor-General in order to ascertain that adequate regulations and procedure have been framed to secure an effective check on the assessment, collection and proper allocation of revenue, and the Auditor-General shall satisfy himself that any such regulations and procedure are being duly carried out.

(2) The Auditor-General shall make such examinations as he thinks fit with respect to the correctness of the sums brought to account in respect of such revenue aforesaid.


Repeal Cap. 176

2 §111 deleted from 1978 Edition Laws of Fiji – previously read:
   “111. The Income Tax Ordinance is repealed.”
FIRST SCHEDULE

FORM 1.

OATH OF SECRECY
(Section 4)

I make oath and swear that I shall regard and deal with all documents, returns, assessments and information relating to the income of any person which may come into my possession or to my knowledge in the course of my official duty, as secret, and that I shall not reveal any such document or information to any person or permit any person to have access to any such document, return or assessment, save in the circumstances in which I am permitted to do so under the Income Tax Act.

Sworn before me this __________ day of __________ 19__________

Magistrate.

FORM 2.

OBSERVATION TO ASSESSMENT

THE INCOME TAX ACT
(Section 62)

Name of Taxpayer:
Reference Number:
To the Commissioner of Inland Revenue:

I hereby give notice that I object to the amount for which I am assessed, for the following reasons:—

[Here shortly describe reasons.]

(or) I am not liable to taxation under the above Act for the following reasons:—

[Here shortly describe reasons.]

Dated this __________ day of __________ 19__________

Signature.
FORM 3.

NOTICE OF APPEAL TO
[HIGH COURT]¹

THE INCOME TAX ACT
(Section 69)

Name of Taxpayer:
Reference Number:

To the Commissioner of Inland Revenue:
I hereby give notice that I am dissatisfied with the decision given by the Court of Review in this matter for the following reasons:—

[Here shortly describe reasons.]

and that I desire to appeal to the [High Court]² of Fiji.

Dated this day of 19

Signature.

FORM 4.

REFERENCE OF APPEAL
TO [HIGH COURT]³

THE INCOME TAX ACT
(Section 69)

In the matter of assessment of

By virtue of the powers vested in me in this behalf under the Income Tax Act, I hereby refer the appeal of (or my appeal) against the decision of the Court of Review to the [High Court]⁴ of Fiji for adjudication thereon.

Dated this day of 19

To the Chief Registrar of the [High Court]⁵ of Fiji.
FORM 5.

NOTICE OF APPEAL TO
DISCRECTIONS REVIEW BOARD

THE INCOME TAX ACT

(Section 70)

Name of Taxpayer:
Reference Number:

To the Chairman,
Discretions Review Board,

I hereby give notice that I am dissatisfied with the exercise of the Commissioner's
discretion under section ________ in the matter of
in connection with the assessment under the above reference, for the following reasons:—

[Here state clearly and concisely the reasons for dissatisfaction.]

and that I desire to appeal to the Discretions Review Board.

I have made an objection to the Commissioner in respect of the above matter and my
objection was wholly/partly disallowed by notice dated the ________ day of ________ 19

I enclose my fee of $2.

Dated the ________ day of ________ , 19

Signature.

SECOND SCHEDULE

(Section 70)

DISCRETIONS APPEALABLE UNDER SECTION 70

<table>
<thead>
<tr>
<th>Section</th>
<th>Subject matter of discretion</th>
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1 Reference to “High Court” substituted for “Supreme Court” by §3(g) Interpretation Act (Cap. 7) WEF 4th December 1987
2 See Note 1
3 See Note 1
4 See Note 1
5 See Note 1
1. **Proviso (b) of section 11**  
   Apportionment of fines, premiums, etc. on grant of a lease between income years.

2. **Paragraph (k) of section 11**  
   (i) Determination of amount of consideration attributable to asset, etc., in respect of which deductions allowed, where sold with other property.  
   (ii) Determination of open market value of assets retained on cessation.

3. **Subsection (1) of section 13**  
   Determination of part of consideration attributable to trading stock where sold with other assets.

4. **Subsections (2) and (3) of section 13**  
   Determination of price of trading stock in absence of market price.

5. **Paragraph (b) of section 14**  
   Income derived for the immediate or future benefit of any beneficiary under a will.

6. **Subsections (1) and (2) of section 20**  
   Determination of reasonable remuneration, allowance, gratuity or compensation paid or credited by a company to a shareholder, director or relative, etc., or by a person in business to a relative, etc., of such person.

7. **Subsection (3) of section 20**  
   Amount expected to be paid to an employee of equivalent age and experience.

8. **Paragraph (a) of subsection (1) of section 21**  
   All discretions conferred on the Commissioner by this paragraph or any instructions thereunder.

9. **Sub-paragraph (ii) of paragraph (b) of section 21**  
   Apportionment of superannuation contributions between income years.

10. **Sub-paragraph (i) of sub-paragraph (c) of section 21**  
    Allowance for expenditure on experimentation, scientific research or investigation.

11. **Sub-paragraph (ii) of sub-paragraph (c) of section 21**  
    Allowance for expenditure on prospecting for minerals.

12. **Paragraph (b) of subsection (2) of section 23**  
    Allowance for expenditure incurred in acquisition of any mining tenement.

13. **Section 34**  
    Determination of income of business controlled from abroad.

14. **Proviso (c) of subsection (1) of section 105**  
    Apportionment of profits between projects against which Hotels Aid relief to be given.

15. **Section 110**  
    Refusal to approve fund, scheme or plan or alteration in respect thereof.

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**THIRD SCHEDULE**  
*(Section 16 (2))*

**TAX CONCESSIONS IN RESPECT OF APPROVED ENTERPRISES**

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*Tax free concessions*
1. Any company which has been specified in accordance with the provisions of paragraph (b) of subsection (2) of section 16 shall be exempt from the payment of tax, to the extent indicated in paragraph 4, on the profits or gains derived from an approved enterprise for such period not exceeding 5 years as may be appointed by the Minister:

Provided that such period way be extended with the authority of the Minister and upon such conditions as he thinks fit by a period not exceeding 3 years in respect of the operations of the approved enterprise in such area or areas as the Minister may direct:

Provided further that no concession shall be granted under paragraph (b) of subsection (2) of section 16 for any year, if the Commissioner is not satisfied that the shareholders of the company are substantially the same as on the date when the concession was granted. For the purposes of this paragraph, the shareholders of a company shall not be deemed to be substantially the same if 30 per cent or more of the voting power or the right to receive dividends is not held by the same person.

Computation of profits and gains

2. During the period from the appointed day to the end of the account period in which the last day of the tax concession period falls, such depreciation shall be written off the assets of that company in calculating its profits or gains as would have been available to it under the provisions of this Act if the company were not in receipt of the concession in respect of the approved enterprise, and the written down values of such depreciable assets at the end of the accounting period in which the last day of the tax concession period falls shall be calculated accordingly:

Provided that the company shall not be obliged to claim initial allowances but such election shall in that event continue for the whole of the tax free period.

End of tax free period

3. If the end of the tax concession period does not coincide with the end of an accounting period of the company, the profits or gains for the accounting period in which the last day of the tax concession falls will be apportioned between the parts of the accounting period which precede and follow the end of such tax concession period on a time basis, and the profits or gains so attributed to the part which precedes the end of the tax concession period shall be subject to the concessions set out in this Schedule which shall also be apportioned on a time basis.

Extent of tax concession

4. An approved enterprise shall be exempt from tax in respect of profits or gains of [$8,000] per annum or if greater, 15 per cent of the smaller of—

(a) the paid up equity capital of the company relating to the enterprise; or

(b) the total fixed capital investment of the company relating to the enterprise,

at the commencement of each of the normal accounting years of the company covering the period specified by the Minister. In determining the capital relating to the enterprise, the Minister may make such apportionments as he deems necessary:

[Provided that—

(i) where an approved enterprise engages more than 25 full time employees during the year or, where employees are required for seasonal work or the like, engages the equivalent of more than 25 full time employees, the figure of 15 per cent mentioned above shall be substituted by a figure of 20 per cent; or
(ii) where an approved enterprise engages more than 50 full time employees during the year or, where employees are required for seasonal work or the like, engages the equivalent of more than 50 full time employees, the figure of 15 per cent mentioned above shall be substituted by a figure of 25 per cent.

5. Notwithstanding the provisions of section 22, relief in respect of losses of an approved enterprise shall be computed in the same manner as profits and shall be available for set off against subsequent profits of the approved enterprise up to the 6 successive years immediately following the end of the tax concession period during which the loss was incurred. Where the end of the tax concession period does not coincide with the last day of an accounting period, the period to the end of such accounting period shall be regarded as the first successive year.

Information

6. Any company wishing to apply for the benefit of a concession referred to in paragraph 1 shall make application to the Minister responsible for economic planning and development providing full information of the enterprise for which approval is sought including—

(a) the proposed paid-up equity capital relating to the enterprise;
(b) the total fixed capital investment relating to the enterprise proposed by the company;
(c) full details of the extent to which the following factors will be involved:—
   (i) what foreign earnings are anticipated;
   (ii) the curtailment of existing imports;
   (iii) the labour intensity of the enterprise;
   (iv) to what extent local raw material will be utilised.

The Minister responsible for economic planning and development and the Minister may call for such further information as they deem necessary.

Approval

7.— (a) The Minister may grant approval upon such conditions as he thinks fit.

(b) Where the company is already trading in Fiji, nothing in this Act shall prevent the Minister approving an enterprise of the company to be an approved enterprise where the company incurs substantial capital expenditure connected with expansion of production of the original product or of an approved new product. In such case, the approved enterprise, for the purposes of this Schedule, shall relate to the expansion, the additional capital and the increase in profits attributable to such increase in profits as if the additional equity capital related to a separate company except that reference to “[$8,000] per annum or if greater” shall be regarded as having been deleted from that paragraph.

In computing the profits attributable to expansion, the Commissioner may make such allocations and apportionments as he considers to be reasonable.

(c) Any concessions granted under the Fifth Schedule of the Income Tax Ordinance shall continue to apply to the conditions obtaining at the date the concession was granted.

Annual accounts
8. Within 6 months of the end of each accounting period, fully audited accounts of the approved enterprise shall be submitted to the Minister, together with such further information as the Minister may, in his discretion, require.

**Revocation**

9.—(1) The Minister may, if he is satisfied that any company which has been granted a concession in respect of an approved enterprise has furnished incorrect information or has in any way misrepresented the facts or failed to submit audited accounts or other information required by the Minister, revoke such concession by notice in the Gazette and the company shall cease to enjoy such concession from the date to be specified in such notice. The Minister may, at his discretion, revoke the concession as from any date and such revocation may apply from the commencement of the concession if he so considers appropriate.

(2) Where the date of revocation does not coincide with the end of all accounting period of the company, then the full profits or gains of the approved enterprise for the accounting period in which such revocation falls shall be subject to tax as if no such concession had been granted.

**Definitions**

10. For the purposes of this Schedule—

"the paid up equity capital" means the total paid up share capital of the company relating to the approved enterprise excluding bonus shares, scrip and similar issues, unless the issues are made out of reserves. The Minister may, at his discretion, include in the paid up equity share capital debentures or loans, provided that such debentures or loans have been provided from funds outside Fiji, that such debentures or loans have been negotiated and the credit made available in Fiji and that the interest thereon is liable to normal tax in Fiji, whereupon the Minister may deem such debentures or loans to be paid up equity share capital for the purposes of this Schedule.

"Total fixed capital investment" means the total cost or written down values—

(a) for the first year, at the commencement of the enterprise; and
(b) for subsequent years, on the last day of the previous accounting period, of all the assets in use which qualify for depreciation allowance under the First and Second Schedules of the instructions issued by the Governor-in-Council under section 30 of the Ordinance repealed by this Act, as depreciated at that date. Such total shall, however, exclude—

(a) the cost of written down values of all private motor vehicles and ships;
(b) all private dwellings except those built for estate workers on plantations or in remote areas, provided that the cost of a single dwelling does not exceed $3,000 and, at the discretion of the Commissioner, a limited number of houses for technical and supervisory staff built for non-Fiji citizens;
(c) in the case of buildings, the cost of the land, tunnelling and site preparation;
(d) in the case of second-hand plant, machinery, equipment and utensils, the cost shall include the cost of freight, insurance and duty but shall not exceed the sum of such items and the written down values of such items based on original cost when new. Any items previously used for productive purposes in Fiji shall be excluded.

The cost of constructing or taking the following services to the site, may, at the discretion of the Commissioner, be included in the total fixed investment—

(a) electricity;
(b) water;
(c) telephone;
(d) drainage;
(e) service roads.

For the purposes of this Schedule—

“approved enterprise” means an enterprise which has been approved by the Minister under paragraph 7 and the company has been specified under the provisions of paragraph (b) of subsection (2) of section 16;

“enterprise” means any project for which a concession is applied for under the provisions of paragraph 1.

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FOURTH SCHEDULE\(^1\)

(Section 7)

RATES OF NORMAL TAX FOR INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS:

A. RESIDENTS

<table>
<thead>
<tr>
<th>Chargeable Income $</th>
<th>Tax payable $</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 6,500</td>
<td>Nil</td>
</tr>
<tr>
<td>6,501 – 8,500</td>
<td>Nil + 15% of excess over $6,500</td>
</tr>
<tr>
<td>8,501 – 15,500</td>
<td>300 + 25% of excess over $8,500</td>
</tr>
<tr>
<td>15,501 +</td>
<td>2,050 + 35% of excess over $15,500</td>
</tr>
</tbody>
</table>

B. NON-RESIDENTS

<table>
<thead>
<tr>
<th>Chargeable Income $</th>
<th>Tax payable $</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 6,500</td>
<td>Nil</td>
</tr>
<tr>
<td>6,501 – 8,500</td>
<td>1,300 + 15% of excess over $6,500</td>
</tr>
<tr>
<td>8,501 – 15,500</td>
<td>1,800 + 25% of excess over $8,500</td>
</tr>
<tr>
<td>15,501 +</td>
<td>3,900 + 35% of excess over $15,500</td>
</tr>
</tbody>
</table>

C. COMPANIES
(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies, in respect of all outgoing business from Fiji, whether freight or passengers, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) ................................................ 45%
(ii) Non-resident and resident mutual insurance companies in respect of life insurance business .............................................................................................. 30%
(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37................................................................................. 30%
(iv) Non-resident shipping companies in respect of all outgoing business from Fiji, whether freight or passengers ................................................................. 2%
(v) Every other company ........................................................................................... 35%

1 Fourth Schedule stated as it applies for year of income commencing 1st January 2000. For previous years of income, see Appendix A

FIFTH SCHEDULE
(Section 16(2)(d))

EXPORT INCENTIVES

1. Preliminary:
   Where the Minister has specified any trade and product as an approved trade or product under paragraph (d) of subsection (2) of section 16, a deduction from chargeable income or a rebate of the tax charged may be allowed in accordance with the provisions of this Schedule.

2. Commencement:
   These provisions shall apply to any fiscal year ending after 1 January 1974.

3. Application for Approval:
   (a) Every company resident in Fiji for the fiscal year of any year of assessment which desires to avail itself of the deduction under this Schedule shall apply to the Minister for approval to be treated as a company eligible for a deduction or rebate for that year,
   (b) The Minister may require a company which applies for approval under (a) to furnish him with particulars which he considers necessary for the purpose of considering the application including, inter alia—
       (i) the name and address of the company;
       (ii) the nature of the trade in respect of which approval is sought;
       (iii) the nature of the product in respect of which approval is sought;
       (iv) details of manufacture or production including capacity and amount available, for export and to which countries the company expects to export.

4. Nature of Trade and Products to be Approved and other Requirements:
(i) The trade and product which the Minister will approve shall be a product of manufacturing, processing, or assembly including the provision of services, the manufacture or produce of deep-sea fishing or of production of minor agricultural commodities. Minor agricultural commodities shall be such commodities as the Minister may approve, but will not include sugar or copra but derivatives of manufacture from these commodities may be considered by the Minister as manufactures.

(ii) An approved trade or product may include a product manufactured, processed or assembled wholly or substantially for export although not directly exported by the company seeking approval, in which case both the manufacturer and exporter as separate entities may be eligible for deduction and both entities may seek approval in respect of the same trade or product.

(iii) No deduction will be due in respect of 

5.

Method of Relief:

(i) Subject to paragraph 11, in respect of an approved product, a rebate in respect of the export profits relating to such approved product for the fiscal year in which approval is first given and the subsequent fiscal years, the full amount of the tax chargeable on the export profits.

The rebate due for any year of assessment shall be limited to the amount calculated under this sub-paragraph or the tax payable for that income year whichever is the less.

(ii) Where a deduction under this Schedule is admissible in addition to an exemption under the Third Schedule the exemption under the Third Schedule shall first be allowed and a deduction under this Schedule will be applied to any balance of profits which have not been exempted. Any apportionment or computation under this paragraph shall be applied as if the net profit chargeable were the total profits of the trade.

(iii) Any concession granted under this Schedule prior to 1st January 1988 shall continue to apply and the rebate, commencing from the year of assessment 1988, shall be computed in accordance with sub-paragraph (i).

(iv) Where the Minister considers that an approved product has not been adequately marketed overseas and further government assistance is desirable to facilitate substantial foreign exchange earnings, he may by direction to the Commissioner extend the year period referred to in sub-paragraph (i), upon such conditions as he thinks fit, by a period not exceeding 5 years.

6. Time Limits:

(i) Except in respect of an application made during the year 1974 in respect of a fiscal year ending in that year, an application for an export incentive deduction shall be submitted to the Minister not later than [9] months after the commencement of the fiscal year the profits of which are to be the subject of an application.

(ii) Provided that satisfactory records are maintained, a taxpayer may continue to claim relief for the year of claim and the subsequent fiscal years.

7. Termination:
The Minister may, on the recommendation of the Commissioner, terminate his approval, if—

(a) inadequate records are maintained or insufficient information is furnished to the Commissioner;

(b) in the event of an inadequate supply to the Fiji market of the approved product, satisfactory arrangements are not made to expand or divert production.

8. **Determination of Export Profits:**

Where a trade is approved which manufactures or processes both qualifying and non-qualifying products, the trader shall satisfy the Commissioner that separate records of output, sale and expenditure to the Minister's requirements are maintained.

The Commissioner may, where separate records for export profits are not maintained, determine such profits on the basis of the following formula:

\[
\frac{A}{B} \times C
\]

Where:—

- \(A\) is total export sales of the qualifying product;
- \(B\) is total sales of all products; and
- \(C\) is total profits arising from sales of all products manufactured by a person qualifying for this relief.

In the case of export sales of [timber grown in Fiji], the export profits may be deemed to be equal to 10 per cent of the Free On Board value of all armslength sales, with the maximum export profit equivalent to 50 per cent of the chargeable income arising in the income year from sales of [timber grown in Fiji].

9. **Definition:**

“Manufacturing” means any product wholly manufactured [or produced] in Fiji or any product which includes components which are imported but the additional costs relating to assembly, processing, further manufacturing or treatment represent an addition to cost of not less than 30 per cent or such percentage as the Minister may direct.

“Exports” shall not include re-exports except to the extent referred to in the meaning of “Manufacturing”.

10. **Certificate by Comptroller of Customs and Excise:**

The amount of exports shall be certified by the Comptroller of Customs and Excise.

The Commissioner may also call for any books, documents, bills of lading or any other information which he may require for the purposes of examining a claim under this Schedule.

11. **Tax Free Zone:**

(i) Notwithstanding the other paragraphs of this Schedule where a trade, product or service is approved in accordance with paragraph 4 and such trade, product or service is exported to the extent of [seventy] percent or more of the annual production thereof by the company, such an enterprise shall be designated a Tax Free Zone and shall enjoy full relief in accordance with paragraph 5 but so that the full period is extended to 13 years commencing from the fiscal year of approval and persisting for the 12 subsequent fiscal years, provided it continues to meet the [seventy] percent criteria:
Provided further that where it is considered appropriate by the Minister the [seventy]\textsuperscript{22} percent export criteria may be reduced in accordance with subsection 3 of Section 7 of the Tax Free Zones Decree, 1991\textsuperscript{23}.

(ii) Any enterprise engaged in re-export to the extent of [seventy]\textsuperscript{24} percent or more of activities conducted by it may for the purpose of this paragraph be designated as a Tax Free Zone and enjoy the relief as in sub-paragraph (i).

(iii) Any enterprise engaged in an approved trade or product or service which supplies [seventy]\textsuperscript{25} percent or more of its annual output to a Tax Free Zone may itself be eligible for designation as a Tax Free Zone under this paragraph.

\textsuperscript{1} Sub-paragraph (i) substituted by §3 Decree 58/1991 WEF 4th December 1991 – previously read:

“(i) The trade and product which the Minister will approve shall be a product of manufacturing or agricultural processing, the manufacture or produce of deep-sea fishing or of production of minor agricultural commodities.

Minor agricultural commodities shall be such commodities as the Minister may approve, but will not include sugar or copra but derivatives of manufacture from these commodities may be considered by the Minister as manufactures.”

\textsuperscript{2} Sub-paragraph (ii) substituted by §3 Decree 58/1991 WEF 4th December 1991 – previously read:

“(ii) No deduction will be due in respect of the deduction relating to the increase in exports for any fiscal year in which total export sales of approved products do not exceed $5,000.”

\textsuperscript{3} Sub-paragraph (iii) inserted by §16(1) Decree 30/1992 WEF 1st January 1992

\textsuperscript{4} Inserted by §8(a) Act 2/1996 WEF 1st January 1996

\textsuperscript{5} Words “30% of total output, with a minimum of deleted by §8(a) Act 2/1996 WEF 1st January 1996

\textsuperscript{6} Substituted by §11 Act 3/1982 WEF 1st January 1982 – previously read:

“5. Method of relief:

(i) In respect of an approved product the manufacture or processing of which commenced after the 1st day of September, 1973;

(a) A rebate of one-half of the tax chargeable on the company in respect of the export profits relating to the manufacture or processing of such approved product for the fiscal year in which approval is first given and the two subsequent fiscal years.

(b) For the subsequent five fiscal years a deduction from such profits of the difference between the profits attributable to export of the approved product for the fiscal year and the mean profits attributable to export of the approved product for the three immediately preceding fiscal years.

(ii) in respect of an approved product the manufacture or processing of which commenced before the 1st day of September, 1973 but not before the 1st day of September, 1970;

(a) A rebate of one-half of the tax chargeable on the company in respect of the export profits relating to the manufacture or processing of the approved product for the fiscal year ending immediately after the 1st day of January, 1974 and for any subsequent year if the manufacture or processing had not continued for three years within the fiscal year in question.

(b) For subsequent years but so that a rebate or deduction shall not be granted for more than eight successive fiscal years as deduction from the export profits attributable to the approved product of the difference between such profits and the mean profits of the three immediately preceding years attributable to export of the approved product.

(iii) In respect of the manufacture or processing of an approved product the manufacture or processing of which commenced before the 1st day of September, 1970 for the fiscal year in which approval is first given and the seven subsequent fiscal years, a deduction from the export profits attributable to the approved product of the difference between such profits and the mean profits of the three immediately preceding years attributable to the export of the approved product.

(iv) Where a deduction under this Schedule is admissible in addition to an exemption under the Third Schedule of this Act the exemption under the Third Schedule shall first be allowed and a deduction under this Schedule will be applied to any balance of profits which have not been exempted. Any apportionment or computation under this paragraph shall be applied as if the net profit chargeable were the total profits of the trade.”

\textsuperscript{7} Sub-paragraph (i) substituted by §4 Decree 58/1991 WEF 4th December 1991 – previously read:

“(i) In respect of an approved product, a rebate in respect of the export profits relating to such approved product for the fiscal year in which approval is first given and the 7 subsequent fiscal years as follows:—

Where the manufacturing cost of the product being exported—
(a) is at least 30 per cent but is less than 40 per cent— one half of the tax chargeable on the export profits;
(b) is at least 40 per cent but is less than 50 per cent— three quarters of the tax chargeable on the export profits;
(c) is 50 per cent or more— the full amount of the tax chargeable on the export profits.

The rebate due for any year of assessment shall be limited to the amount calculated under this sub-paragraph or the tax payable for that income year whichever is the less.

8 Substituted for “7” by §8(b) Act 2/1996 WEF 1st January 1996
9 Substituted by §4 Decree 58/1991 WEF 4th December 1991; no changes made to previous sub-paragraph
10 Sub-paragraph (iii) substituted by §4 Decree 58/1991 WEF 4th December 1991 – previously read:
   “(iii) Any concession granted under this Schedule prior to 1 January 1982 shall continue to apply and the rebate, commencing from the year of assessment 1982, shall be computed in accordance with sub-paragraph (i).”
12 Substituted for “8” by §8(c) Act 2/1996 WEF 1st January 1996
13 Substituted for “3” by §11(b) Act 3/1982 WEF 1st January 1982
14 Substituted for “7” by §8(d) Act 2/1996 WEF 1st January 1996
15 Substituted by §18 Act 21/1980 WEF 1st January 1980 – previously read:
   “8. Determination of export profits:
   Where a trade is approved which manufactures or processes both qualifying and non-qualifying products, the trader shall satisfy the Commissioner that separate records of output, sale and expenditure to the Minister’s requirements are maintained.
   The Commissioner may make any apportionment which he considers reasonable in determining profits from qualifying and non-qualifying products.”
16 Substituted for “indigenous timber” by §11(b) Act 25/1986 WEF 1st January 1987
17 See Note 16
18 Inserted by §11(c) Act 3/1982 WEF 1st January 1982
19 Paragraph 11 inserted by §5 Decree 58/1991 WEF 4th December 1991
21 See Note 20
22 See Note 20
24 See Note 20
25 See Note 20

SIXTH SCHEDULE¹
(Section 16(2) (e))

FILM MAKING INCENTIVES

1. Preliminary:
   Where the Minister has specified any non-resident company engaged in making a film in Fiji under paragraph (e) of subsection (2) of section 16, the rate of tax payable by its non-resident employees shall be determined in accordance with the provisions of this Schedule.

2. Commencement:
   These provisions shall apply from 1 January 1980.

3. Application for Approval:
Every non-resident company whose employees desire to enjoy the reduced rates of tax available under this Schedule shall apply to the Minister for approval to treat its employees as being eligible for such reduced rates. The Minister may require the non-resident film company which makes an application under this paragraph to furnish him with particulars he considers necessary for the purpose of considering the application including, inter alia—

(a) the full name and address of the non-resident company;
(b) the duration for which the company will be engaged in making a film in Fiji;
(c) the title of the film and brief particulars of the script;
(d) the name, address and nationality of each non-resident employee concerned and the amount of emoluments payable while the employee is engaged in Fiji;
(e) the total amount of emoluments that it may pay to local employees who would be engaged by it;
(f) the total amount it proposes to expend on local goods and services and a brief description of the goods and services in respect of which this amount will be used;
(g) the location or locations where the company will be engaged during the making of the film in Fiji.

4. **Method of Relief Where Approval is Granted:**
   The amount of tax payable by each non-resident employee will be equal to—
   (a) the amount of tax assessed in accordance with the general provisions of the Act; or
   (b) the amount of tax assessed in accordance with the rate specified by the Minister under paragraph (e) of subsection (2) of section 16, whichever is the less.

5. **Method of Payment:**
   The approved non-resident film company may be required to provide a suitable security in favour of the Commissioner, on the basis of tax payable by its employees under paragraph 4.

6. **Interpretation:**
   For the purposes of this Schedule—
   “film” has the meaning assigned to it by paragraph (e) of subsection (2) of section 16;
   “non-resident employee” includes any individual who has been engaged by a non-resident film company to work in Fiji on a contract for services either with that person or with any other person;
   “local goods and services” means—
   (a) emoluments paid to employees who are Fiji nationals or are permanently resident in Fiji; and
   (b) the cost of goods produced in their entirety in Fiji:
   Provided that, where goods acquired in Fiji have foreign and local cost contents, the estimated foreign cost content shall be excluded.

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1 Inserted by §19 Act 21/1980 WEF 1st January 1980
AGRICULTURAL ENTERPRISES INCENTIVES

1. Any company which have been specified in accordance with the provisions of section 16(2)(f) shall be exempt from the payment of tax under the provisions of this Act on the profits or gains derived from the agricultural enterprise in respect of which the concession has been granted during any 5 out of 10 years from such date as may be appointed by the Minister as the date on which the company is deemed to have commenced commercial production, which 5 years together are hereinafter referred to as the “tax-free period”.

2. During the period from the date appointed by the Minister under the provisions of paragraph 1 to the end of the accounting period in which the last day of the tax-free period falls, such depreciation shall be written off the assets of that company in calculating its profits or gains as would have been available to it under the provisions of this Act (other than the initial allowances which might have been claimed in respect of expenditure on plant and machinery, etc., and buildings; and an allowance for improvements contained in Part VI of the Allowances for Depreciation and Improvement Instructions issued under section 21) if the company were not in receipt of the concession provided by this Schedule, and the written down values of such depreciable assets at the end of the accounting period in which the last day of the tax-free period falls shall be calculated accordingly.

3. If the end of the tax-free period does not coincide with the end of an accounting period of the company, the profits or gains for the accounting period in which the last day of the tax-free period falls shall be apportioned between the parts of the accounting period which precede and follow the end of such tax-free period on a time basis, and the profits or gains so attributed to the part which precedes the end of the tax-free period shall be exempt from tax.

4. Notwithstanding the provisions of section 22, if a loss is incurred in any accounting period by a company in respect of any enterprise for which concessions have been granted under this Schedule, such loss or accumulation of losses, if there be more than 1 accounting period involved, shall, for the purposes of carry forward be available for set off for a period of 10 years commencing from the date as may be appointed by the Minister as the date on which the company is deemed to have commenced commercial production, against:
   (i) any profits or gains of the company derived during the tax-free period but not exempted from tax under the concessions provided for by this Schedule;
   (ii) any profits or gains of a corn any which, at the end of the relevant year, of assessment is the holding company, or an associated company, of a company which is engaged solely or mainly in coconut growing, rice growing, dairy farming, beef production, or goat farming;
   (iii) any profits or gains liable to tax upon an apportionment being necessary in accordance with the provisions of paragraph 3.

To the extent that losses are not wholly set off under sub-paragraphs (i), (ii) and (iii) above, the balance shall be available for carry forward and may be set off against the profits or gains of the company enjoying relief under this Schedule during the successive years immediately following the end of the relevant accounting period, with no restriction on the number of years for which the losses may be carried forward.

5. Any company wishing to apply for the benefit of the concessions contained in this Schedule shall provide the Minister responsible for economic planning and development with
such details as he may, in his discretion, require of the agricultural enterprise in which the company is engaged or proposes to engage, whereupon the Minister responsible for economic planning and development shall make his recommendation to the Minister of Finance who may specify the company pursuant to section 16(2)(f), upon such conditions as he thinks fit, as a company to which the concessions contained in this Schedule apply.

6. There shall be submitted to the Minister, within 9 months of the end of each accounting period of a company to which the concessions contained in this Schedule apply, a copy of the accounts of the company for that period, duly audited by an auditor approved by the Minister, together with such further information as the Minister may, in his discretion, require.

7. (1) If the Minister is satisfied that any company to which the concessions contained in this Schedule apply has contravened any of the provisions of this Schedule or conditions imposed by the Minister in specifying the company under section 16(2)(f) he may, by notice in the Gazette, revoke the concessions and the company shall cease to enjoy such concessions from the date to be specified in such notice, which may be any date from the date on which the company is deemed to have commenced commercial production.

(2) Where the date of revocation does not coincide with the end of an accounting period of the company, then the full profits or gains of the accounting period in which such revocation date falls shall be subject to tax as if the concessions had not been granted.

8. Any company to which concessions contained in this Schedule apply which fails to furnish the accounts or further information required by the Minister in accordance with the provisions of paragraph 6 shall be subject to a like penalty to that provided for in section 93 which penalty shall be assessed and collected accordingly.

9. (1) A company shall not be entitled to the concessions contained in this Schedule if 20 per cent or more of the issued and paid up capital in that company is beneficially owned either directly or indirectly by a person who is himself a shareholder of the company, or—

(a) a relative by blood, marriage or adoption of such a shareholder; or

(b) the spouse of such a shareholder; or

(c) a relative by blood, marriage or adoption of the spouse of such a shareholder,

if that person is, or previously has been, engaged in any business which, in the opinion of the Minister, is similar to that of the enterprise in respect of which the concessions contained in this Schedule are applied for.

(2) For the purposes of paragraph (1)—

(a) if 20 per cent of more of the shares in a company applying for the concessions contained in this Schedule are held by another company (in this paragraph referred to as the “second company”); or

(b) if, in circumstances where sub-paragraph (a) applies, 20 per cent or more of the shares in the second company are held by another company (in this sub-paragraph referred to as the “third company”) then individuals who are shareholders in either the second company or the third company shall be deemed indirectly to beneficially own shares in the company applying for the concessions:
[Provided that where the Minister considers that it shall be expedient for the economic development of Fiji, he may direct—

(a) that the reference in this paragraph to 20 per cent or more of the issued and paid up capital of a company be substituted by a reference to 51 per cent or more of the issued and paid up capital of such company;

(b) that any existing company, engaged in any of the activities described in paragraph 10, which incurs substantial expenditure in the expansion of any such activities shall be entitled to the concessions contained in this Schedule upon such conditions as the Minister may specify.]³

10.⁴ Any company engaged in any of the farming activities specified in sub-paragraphs (i) and (ii) of paragraph (c) of section 16(1), or in processing agricultural produce, or in exporting agricultural produce, or engaged solely in agricultural contracting may qualify for the concessions contained in this Schedule.

11. The provisions of paragraph (l) of the proviso to section 11 shall not apply to any company which, in accordance with sub-paragraph (ii) of paragraph 4, is permitted to set off losses incurred by it in any year during the tax-free period against any profits or gains of the holding company or against any profits or gains of an associated company. In the event of such a company disposing of its assets in respect of which deductions were allowed for improvements under Part VI of the Allowances for Depreciation and Improvements Instructions or the sale by any shareholder of his shares in the company, the deductions granted shall fall to be recouped and dealt with in accordance with paragraph (k) of the proviso to section 11, and, for the purposes of that paragraph, a shareholder who disposes of his interest in the company shall be deemed to be the owner or part owner of the company’s land or interest in land, and to be disposing of that proportion of the ownership of such land or interest in land which his interest in the company bears to the total issued capital of the company, provided that recoupment made previously in respect of the sale of the same shares is not duplicated.

12. In this Schedule, unless the context otherwise requires—

[“agricultural contracting” means the carrying on of a trade by any company which has incurred substantial capital expenditure on the purchase of plant and machinery which is predominantly used in carrying on such trade, being a trade which consists of all or any of the following activities:—

(a) the clearing, ploughing or preparing for agricultural purposes land not in the occupation of the company;

(b) engaging in any other agricultural operation on such land;]⁶

“associated company” means a company in which the shareholders are common to another company, and, in determining whether shareholders are common, shares in 1 company held by another company, shall be deemed to be held by shareholders in the last mentioned company;

“exporting agricultural produce” means being engaged solely or mainly in the export of local produce;

“holding company” means a company which holds not less than 80 per cent of the issued and paid up capital of a subsidiary company;

“processing agricultural produce” means processing produce which includes agricultural produce of Fiji representing not less than 50 per cent of the total cost of production of the end product.
EIGHTH SCHEDULE\(^1\)

(Sections 11 (x) and 16(4))

[MARITIME]\(^2\) VESSELS INVESTMENT ALLOWANCE

Applications for investment allowance

I.—(1)\(^3\) In order to obtain the benefit of the maritime vessels investment allowance, a person who proposes to use an eligible vessel in Fiji may apply in writing to the Tourism Minister.

(2) An application under sub-paragraph (1) shall—
   (a) contain—
      (i) the information specified in sub-paragraph (3);
      (ii) particulars of the relevant area;
      (iii) particulars of the method of financing the construction of the vessel; and
      (iv) such other information as may be required by the Tourism Minister; and
   (b) be accompanied by—
      (i) a complete set of drawings of the vessel; and
      (ii) such other documents as may be required by the Tourism Minister.

(3) The information referred to in sub-item (i) of item (a) of sub-paragraph (2) is the following information in relation to the vessel:—
   (a) its overall size, including its length and beam;
   (b) its tonnage;
   (c) a description of its main propulsion system, with the following particulars:—
      (i) whether single or twin screw or otherwise;
      (ii) name, model and horse-power rating of main engine or engines;
   (d) its estimated (or, where known, actual) fuel consumption per hour;
   (e) its estimated (or, where known, actual) service speed in knots;
   (f) its passenger capacity, with the following particulars:—
      (i) the number of suites;
      (ii) the number of twin cabins;
      (iii) the number of single cabins;
      (iv) the overall seating capacity otherwise than in suites, cabins and dining rooms;
      (v) the dining room capacity;
      (vi) the number of toilets, showers and similar facilities;
      (vii) any other amenities;
(g) its construction (whether steel, timber or otherwise);
(h) its total estimated (or, where known, actual) cost;
(i) the name of its builder.

Approval

2.—(1) The Tourism Minister, upon receiving an application under paragraph 1, shall consider the application and refer it, together with his recommendations in relation to it, to the Minister, who shall, by notice in writing—
(a) reject the application;
(b) give provisional approval to the application, with or without such conditions as he considers reasonable; or
(c) give provisional approval to a part, and reject the remainder, of the application, imposing such conditions in relation to his partial provisional approval as he considers reasonable.

(2) In arriving at his decision under sub-paragraph (1), the Minister shall take into consideration the following matters, that is to say:—
(a) the requirements for such a vessel in the relevant area;
(b) whether the vessel is likely to make an adequate contribution to the meeting of those requirements in the relevant area;
(c) whether the vessel is, or is to be, of suitable size and standard for operations in the relevant area;
(d) whether the facilities proposed to be provided in the vessel would be adequate for the comfort and safety of passengers, but shall, in all other respects, exercise his own discretion.

(3) Without prejudice to his powers under sub-paragraphs (1) and (2), the Minister may specify particular requirements applicable to any particular area of operation in Fiji.

(4) The decision of the Minister under sub-paragraph (1) shall be final but, in case of rejection (whether total or partial), shall not preclude the applicant from submitting a fresh application or amending his original application.

Allowance

3.—(1) Where—
(a) the construction of a vessel is completed in accordance with provisional approval granted to a person; and
(b) the Minister is satisfied that it is expedient for the economic development of Fiji that that person should be entitled to a [maritime] vessels investment allowance in respect of that vessel,
the Minister may, either by order or by written direction to the Commissioner, certify that person, upon such conditions as he thinks fit, to be entitled to a [maritime] vessels investment allowance in respect of that vessel.

(2) Subject to sub-paragraphs (3), (4) and (5) and paragraph 6, the investment allowance in respect of a vessel is a deduction from total income arising from the use of that vessel in accordance with the conditions (if any) referred to in sub-paragraph (1), for operations over the primary allowance period of amounts not exceeding in the aggregate an amount equal to 55% of the total capital expenditure incurred in the construction of the vessel, as approved by the Minister.
(3) Where, at the expiration of the primary allowance period, any part of the investment allowance in respect of the vessel has not been claimed, the owner of the vessel may set off against total income derived by him in succeeding fiscal years from [other] business conducted by him amounts not exceeding in the aggregate the amount of that unclaimed part of the investment allowance.

(4) Where income is derived by the owner of the vessel from the use of other vessels, the profit in respect of the first-mentioned vessel shall be deemed to be—

(a) except where item (b) applies, an amount that bears to the total profit derived by him from the use of [all such] vessels the same proportion as the gross income derived by him from the first-mentioned vessel bears to the total gross income derived by him from the use of [all such] vessels; or

(b) where the Commissioner so directs, an amount ascertained on such other basis as the Commissioner may determine.

(5) Where the owner of the vessel is a company, no deduction from total income by way of investment allowance shall be allowed in relation to a fiscal year of that company if the Commissioner is satisfied that, in that year, the shareholders of the company are not substantially the same as on the date on which the provisional approval was granted unless prior approval from the Minister for the changes of shareholders has been obtained.

(6) For the purposes of sub-paragraph (5), the test to be applied to determine whether there has been a substantial change in shareholding shall be the same as that applied under paragraph (a) of subsection (2) of section 105.

Depreciation

4. Nothing in paragraph 3 shall be taken to prevent a person who is entitled to an investment allowance in relation to a vessel from claiming depreciation under this Act in relation to that vessel and, for that purpose, the investment allowance shall not be deducted in calculating the prime cost of that vessel.

Losses

5. Where a loss is incurred in the operation of a vessel in respect of which an investment allowance is enjoyed, the period of 6 years referred to in paragraph (b) of subsection (1) of section 22 shall commence at the expiration of the primary allowance period.

Recoupment

6.—(1) If, before the expiration of the primary allowance period, the vessel is sold, transferred, lost, destroyed or otherwise disposed of, the amount of any proceeds shall be taken, for the purposes of ascertaining the total income of its owner, to be an amount to which paragraph (x) of the proviso to section 11 applies, but that amount shall not exceed an amount equal to the aggregate of the deductions from total income by way of investment allowance which have been allowed previously.

(2) For the purposes of sub-paragraph (1), the reference in that sub-paragraph to the proceeds in relation to the sale, transfer, loss, destruction or other disposal of a vessel shall, without limiting the generality of that reference, be taken to include, in particular—

(a) the market value of any consideration received otherwise than in cash; and

(b) any moneys received—
(i) under any policy of insurance;
(ii) by way of indemnity;
(iii) by way of damages; or
(iv) in settlement of any claim,
in relation to that sale, transfer, loss, destruction or other disposal.

(3) If, during the primary allowance period, the nature of the use of the vessel changes substantially, an amount equal to the aggregate of deductions from total income by way of investment allowance already allowed shall be taken, for the purposes of ascertaining the total income of its owner, to be an amount to which paragraph (x) of the proviso to section 11 applies in the year in which the change occurred.

(4) Sub-paragraphs (1) and (3) shall not be taken to affect the operation of paragraph (k) of the proviso to section 11 in respect of any balancing charge arising in respect of the vessel.

(5) The Minister may, where he considers it warranted, upon application by the owner of a vessel, direct that an amount that, in accordance with sub-paragraph (1) or (3), is to be taken to be an amount to which paragraph (x) of the proviso to section 11 applies be reduced to such extent as he deems fit.

Application to certain vessels

7. The provisions of this Schedule (other than this paragraph) apply in relation to an eligible vessel the construction of which commenced before 30 December 1983 subject to such modifications and adaptations as the Minister, either generally by order or, in a particular case, by written direction to the applicant for the allowance, directs.

Interpretation

8. In this Schedule, unless the contrary intention appears—
“eligible vessel”, in relation to a person, means a sea-going vessel that has been, is being or is to be built in Fiji by or on behalf of that person at a cost of not less than [F$250,000]16;
“investment allowance” means the [maritime]17 vessels investment allowance referred to in sub-paragraph (1) of paragraph 3;
“primary allowance period” in relation to a person who is certified under sub-paragraph (1) of paragraph 3 to be entitled to the investment allowance in respect of a vessel, means the 5 fiscal years of that person commencing with the fiscal year in which the vessel is completed in accordance with the relevant provisional approval;
“provisional approval” means an approval in principle given by the Minister under paragraph 2;
“relevant area”, in relation to a vessel that is the subject of an application under paragraph 2 or a provisional approval, means the area over which it is proposed in the application or the provisional approval, as the case requires, that the vessel be used …18;
“Tourism Minister” means the Minister for the time being having responsibility for tourism;
“tourist operations” …19

1 Inserted by §8 Act 25/1983 w.e.f 30th December 1983
   “(1) In order to obtain the benefit of the investment allowance, a person who proposes to use an eligible vessel for tourist operations shall, before 31 December [1999], make application, in writing, accordingly to the Tourism Minister.”
4 Substituted by §14(c)(i) Act 10/1998 WEF 1st January 1998 – previously read:
   “(a) the requirements for the carriage of overseas tourists, and provision to them of extended cruises, in the relevant area;”
   “(c) whether the vessel is, or is to be, of suitable size and standard for tourist operations in the relevant area;”
12 See Note 10
13 See Note 11
14 See Note 10
   “Tourist operations’ means the carriage of tourists on day trips or extended cruises within Fiji waters.”

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**NINTH SCHEDULE**

*(Sections 11(y) and 16(5))*

SUPPORTIVE PROJECTS TO TOURIST INDUSTRY INVESTMENT ALLOWANCE

Applications for investment allowance

1.—(1) In order to obtain the benefit of the investment allowance, a person who proposes to carry out a project may, during the qualifying period, make application, in writing, accordingly to the Tourism Minister.

(2) An application under sub-paragraph (1) shall—

(a) contain—

(i) a detailed description of the site on which it is proposed to carry out the project, including, in particular, its location and principal features;

(ii) a detailed description of the proposed project;

(iii) a detailed description of the buildings to be constructed for the purposes of the proposed project and of the use to which it is proposed that they be put;

(iv) an analysis of the estimated cost of establishing the facilities comprised in the project, setting out, in particular, the respective costs of the acquisition of the
site, preparation of the site, construction of buildings and other items of a capital nature;
(v) particulars of the proposed method of financing the project; and
(vi) an estimate of the number of employees who will be engaged on a full-time basis in the operation of the facilities comprised in the project; and
(b) be accompanied by—
(i) a set of drawings showing, in detail satisfactory to the Tourism Minister, the site and the layout of the proposed facilities; and
(ii) such other documents as may be required by the Tourism Minister.

Approval

2.—(1) The Tourism Minister, upon receiving an application under paragraph 2, shall consider the application and refer it, together with his recommendation in relation to it, to the Minister, who shall, by notice in writing—
(a) reject the application;
(b) give provisional approval to the application, with or without such conditions as he considers reasonable; or
(c) give provisional approval to a part, and reject the remainder, of the application, imposing such conditions in relation to his partial provisional approval as he considers reasonable.

(2) In arriving at his decision under sub-paragraph (1), the Minister shall take into consideration the following matters, that is to say:—
(a) the requirements for facilities of the kind comprised in the proposed project;
(b) whether the proposed project is likely to make an adequate contribution to the meeting of those requirements in the area in which it is proposed to be carried out, but shall, in all other respects, exercise his own discretion.

(3) Without prejudice to his powers under sub-paragraphs (1) and (2), the Minister may specify particular requirements applicable to the carrying out of a project in any particular area in Fiji.

(4) The decision of the Minister under sub-paragraphs (1) shall be final but, in case of rejection (whether total or partial), shall not preclude the applicant from submitting a fresh application or amending his original application.

Allowance

3.—(1) Where—
(a) the establishment of the facilities comprised in a project is completed in accordance with provisional approval granted to a person; and
(b) the Minister is satisfied that it is expedient for the economic development of Fiji that that person should be entitled to a supportive projects to tourist industry investment allowance in respect of that project,
the Minister may, either by order or by written direction to the Commissioner, certify that person, upon such conditions as he thinks fit, to be entitled to a supportive projects to tourist industry investment allowance in respect of that project.

(2) Subject to sub-paragraph (3) and paragraph 6, the investment allowance in respect of a project is a deduction from total income of the promoter arising, in accordance with the conditions (if any) referred to in sub-paragraph (1), from that project and other sources related to tourism of amounts not exceeding in the aggregate an amount equal to 55% of the total
qualifying expenditure incurred in the establishment of the facilities comprised in the project, as approved by the Minister.

(3) Where a promoter is a company, no deduction from total income by way of investment allowance shall be allowed in relation to a fiscal year of that company if the Commissioner is satisfied that, in that year, the shareholders of the company are not substantially the same as on the date on which the provisional approval was granted unless prior approval from the Minister for the changes of shareholders has been obtained.

(4) For the purposes of sub-paragraph (3), the test to be applied to determine whether there has been a substantial change in shareholding shall be the same as that applied under paragraph (a) of subsection (2) of section 105.

Depreciation

4. Nothing in paragraph 3 shall be taken to prevent a person who is entitled to an investment allowance in relation to a project from claiming depreciation under this Act in relation to assets employed in the project and, for that purpose, the investment allowance shall not be deducted in calculating the prime cost of those assets.

Losses

5. Where a loss is incurred in carrying on the operations comprised in a project in respect of which an investment allowance is enjoyed, the period of 6 years referred to in paragraph (b) of subsection (1) of section 22 shall commence at the expiration of the prescribed period.

Recoupment

6.—(1) If, before the expiration of the prescribed period, the facilities comprised in a project are sold, transferred, destroyed or otherwise disposed of, the amount of any proceeds shall be taken, for the purposes of ascertaining the total income of the promoter, to be an amount to which paragraph (y) of the proviso to section 11 applies, but that amount shall not exceed an amount equal to the aggregate of the deductions from total income by way of investment allowance which have been allowed previously.

(2) For the purposes of sub-paragraph (1), the reference in that sub-paragraph to the proceeds in relation to the sale, transfer, destruction or other disposal of facilities shall, without limiting the generality of that reference, be taken to include, in particular—

(a) the market value of any consideration received otherwise than in cash; and

(b) any moneys received—

(i) under any policy of insurance;

(ii) by way of indemnity;

(iii) by way of damages; or

(iv) in settlement of any claim,

in relation to that sale, transfer, destruction or other disposal.

(3) If, during the prescribed period, the nature of a project changes substantially, an amount equal to the aggregate of deductions from total income by way of investment allowance already allowed shall be taken, for the purposes of ascertaining the total income of the promoter, to be an amount to which paragraph (y) of the proviso to section 11 applies in the year in which the change occurred.
(4) Sub-paragraphs (1) and (3) shall not be taken to affect the operation of paragraph (k) of the proviso to section 11 in respect of any balancing charge arising in respect of the project.

(5) The Minister may, where he considers it warranted, upon application by a promoter, direct that an amount that, in accordance with sub-paragraph (1) or (3), is to be taken to be an amount to which paragraph (y) of the proviso to section 11 applies be reduced to such extent as he deems fit.

Interpretation

7. In this Schedule, unless the contrary intention appears—

“investment allowance” means the supportive projects to tourist industry investment allowance referred to in sub-paragraph (1) of paragraph 3;

“prescribed period”, in relation to the promoter of a project, means the 5 fiscal years of that promoter commencing with the fiscal year in which the establishment of the facilities comprised in the project is completed in accordance with the relevant provisional approval;

“project” means the establishment and operation, at a site in Fiji of facilities of a permanent nature for the public presentation, especially to overseas visitors to Fiji, of matter of interest to tourists that relates to Fiji, including, in particular and without derogating from the generality of the foregoing, matters relating to—

(a) the flora, fauna and other natural characteristics of Fiji; and

(b) the history, traditions, cultures and ways of life of its peoples;

“promoter”, in relation to a project, means the person (if any) who is entitled, in accordance with sub-paragraph (1) of paragraph 3 to an investment allowance in respect of that project;

“provisional approval” means an approval in principle given by the Minister under paragraph 2;

“qualifying expenditure” means capital expenditure on—

(a) landscaping, buildings, plant and machinery; and

(b) stocks of animals, plants and artifacts for display purposes,

but does not include the cost of—

(c) the acquisition of land;

(d) site preparation; or

(e) buildings, plant, machinery and fixtures that—

(i) are used for the provision of goods which are generally available to the public; and

(ii) do not form an integral part of the project;

“qualifying period” means the period commencing on 1 January [1989]2, and ending on 31 December [1993]3;

“Tourism Minister” means the Minister for the time being having responsibility for tourism.

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1 Inserted by §8 Act 25/1983 WEF 30th December 1983 – note that Allowance not available after 31st December 1993

Controlled by Ministry of Finance
### APPENDIX A

**TAX RATES FOR YEARS OF ASSESSMENT 1974 – 2000**

**I. Year of assessment 1974**

**FOURTH SCHEDULE**

**RATES OF NORMAL TAX**

**A. INDIVIDUALS**

<table>
<thead>
<tr>
<th>When the chargeable income does not exceed</th>
<th>$600</th>
<th>$45</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,000 but does not exceed</td>
<td>$200</td>
<td>7½%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>12½%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>17½%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>22½%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>25%</td>
</tr>
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<td>$2,000 but does not exceed</td>
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<td>27½%</td>
</tr>
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<td>$220</td>
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<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>32½%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>35%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>37½%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>40%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>42½%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>45%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>47½%</td>
</tr>
<tr>
<td>$2,000 but does not exceed</td>
<td>$220</td>
<td>50%</td>
</tr>
</tbody>
</table>

**B. COMPANIES**

(i) **Non-resident** companies carrying on business in Fiji (other than non-Fiji shipping companies, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) ........................................ 37½%

(ii) **Non-resident** mutual insurance companies in respect of life insurance business ........................................ 22½%

(iii) **Non-resident** or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 ................................. 22½%

(iv) **Non-resident** shipping companies in respect of all outgoing business from Fiji, whether freight or passengers ........................................................................................................................... 2%

(v) **Every other company** ................................................................................................. 30½%
II. Years of assessment 1975, 1976

FOURTH SCHEDULE

RATES OF NORMAL TAX

A. INDIVIDUALS, [ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS]¹

When the chargeable income does not exceed $600
exceed $600 but does not exceed $2,000 $45
exceeds $2,000 but does not exceed $3,000 $220
exceeds $3,000 but does not exceed $4,000 $745
exceeds $4,000 but does not exceed $5,000 $2,200
exceeds $5,000 but does not exceed $6,000 $5,500
exceeds $6,000 but does not exceed $7,000 $1,032.50
exceeds $7,000 but does not exceed $8,000 $3,820

plus 7½% of each dollar of chargeable income
plus 12½% of each dollar of chargeable income in excess of $600
plus 17½% of each dollar in excess of $2,000
plus 22½% of each dollar in excess of $3,000
plus 25% of each dollar in excess of $4,000
plus 27½% of each dollar in excess of $5,000
plus 30% of each dollar in excess of $6,000
plus 32½% of each dollar in excess of $7,000
plus 35% of each dollar in excess of $8,000
plus 37½% of each dollar in excess of $9,000
plus 40% of each dollar in excess of $10,000
plus 42½% of each dollar in excess of $11,000
plus 45% of each dollar in excess of $12,000
plus 47½% of each dollar in excess of $13,000
plus 50% in respect of any excess

B. COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) ......................... 37½%
(ii) Non-resident mutual insurance companies in respect of life insurance business ......................... 22½%
(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 ......................... 22½%
(iv) Non-resident shipping companies ................................................................. 2%
(v) Every other company .......................................................... 30 ½%

¹ Inserted (by substitution) by §17 Act 10/1975 WEF 1st January 1975

FOURTH SCHEDULE

RATES OF NORMAL TAX

A. INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS

When the chargeable income does not exceed .................................................. $600
When the chargeable income exceeds $600 but does not exceed $2,000 $45 plus 12½% of each dollar of chargeable income in excess of $600
When the chargeable income exceeds 2,000 but does not exceed 3,000 $220 plus 17½% of each dollar in excess of 2,000
When the chargeable income exceeds 3,000 but does not exceed 4,000 $395 plus 22½% of each dollar in excess of 3,000
When the chargeable income exceeds 4,000 but does not exceed 4,500 $620 plus 25% of each dollar in excess of 4,000
When the chargeable income exceeds 4,500 but does not exceed 5,000 $882.50 plus 30% of each dollar in excess of 5,000
When the chargeable income exceeds 5,000 but does not exceed 5,500 $1,195 plus 35% of each dollar in excess of 5,000
When the chargeable income exceeds 5,500 but does not exceed 6,000 $1,437.50 plus 37½% of each dollar in excess of 5,500
When the chargeable income exceeds 6,000 but does not exceed 6,500 $1,680 plus 40% of each dollar in excess of 6,000
When the chargeable income exceeds 6,500 but does not exceed 7,000 $1,925 plus 42½% of each dollar in excess of 6,500
When the chargeable income exceeds 7,000 but does not exceed 7,500 $2,170 plus 45% of each dollar in excess of 7,000
When the chargeable income exceeds 7,500 but does not exceed 8,000 $2,412.50 plus 47½% of each dollar in excess of 7,500
When the chargeable income exceeds 8,000 but does not exceed 10,000 $2,975 plus 50% in respect of any excess
In excess of $12,000 $3,820 plus 50% in respect of any excess

B. COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies [in respect of all outgoing business from Fiji, whether freight or passengers],)\(^1\) non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section [37] 37% .................................................................................................................. 37½%
(ii) Non-resident mutual insurance companies in respect of life insurance business 22½%
(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section [37] 22½%
(iv) Non-resident shipping companies [in respect of all outgoing business from Fiji, whether freight or passengers]\(^2\) .................................................................................................................. 2%
(v) Every other company ........................................................................................................ 30 6/6%

\(^1\) Inserted by§14(a) Act 10/1977 WEF 1st January 1977
\(^2\) Inserted by§14(b) Act 10/1977 WEF 1st January 1977
IV. Year of assessment 1980

FOURTH SCHEDULE

RATES OF NORMAL TAX

A. INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS

When the chargeable income does not exceed .................................................. $600

exceed $600 but does not exceed $2,000 $45 plus 12½% of each dollar of chargeable income in excess of $600

exceeds 2,000 but does not exceed 3,000 $220 plus 17½% of each dollar of chargeable income in excess of $2,000

exceeds 3,000 but does not exceed 4,000 395 plus 22½% of each dollar in excess of 3,000

exceeds 4,000 but does not exceed 4,500 620 plus 25% of each dollar in excess of 4,000

exceeds 4,500 but does not exceed 5,000 745 plus 27½% of each dollar in excess of 4,500

exceeds 5,000 but does not exceed 5,500 882.50 plus 30% of each dollar in excess of 5,000

exceeds 5,500 but does not exceed 6,000 1,032.50 plus 32½% of each dollar in excess of 5,500

exceeds 6,000 but does not exceed 6,500 1,195 plus 35% of each dollar in excess of 6,000

exceeds 6,500 but does not exceed 7,000 1,370 plus 37½% of each dollar in excess of 6,500

exceeds 7,000 but does not exceed 7,500 1,557.50 plus 40% of each dollar in excess of 7,000

exceeds 7,500 but does not exceed 8,000 1,757.50 plus 42½% of each dollar in excess of 7,500

exceeds 8,000 but does not exceed 10,000 1,970 plus 45% of each dollar in excess of 8,000

exceeds 10,000 but does not exceed 12,000 2,870 plus 47½% of each dollar in excess of 10,000

In excess of $12,000 3,820 plus 50% in respect of any excess

B. COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies in respect of all outgoing business from Fiji, whether freight or passengers, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) ............................................................42½%1

(ii) Non-resident mutual insurance companies in respect of life insurance business ........................................27½%2

(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 ..................22½%

(iv) Non-resident shipping companies in respect of all outgoing business from Fiji, whether freight or passengers .................................................................2%3

(v) Every other company ...............................................................................................................................35%4

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1 Substituted for 37½% by §17 Act 21/1980 WEF 1st January 1980
2 Substituted for 22½% by §17 Act 21/1980 WEF 1st January 1980
3 Substituted for 30½% by §17 Act 21/1980 WEF 1st January 1980
4 Substituted for 30½% by §17 Act 21/1980 WEF 1st January 1980

FOURTH SCHEDULE

RATES OF NORMAL TAX

A. INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS

When the chargeable income does not exceed $600, 5% of each dollar of chargeable income.
- $600 but does not exceed $2,500: $30.00 plus 11% of each dollar in excess of $600.
- $2,500 but does not exceed $4,000: $239.00 plus 18% of each dollar in excess of $2,500.
- $4,000 but does not exceed $5,500: $509.00 plus 27½% of each dollar in excess of $4,000.
- $5,500 but does not exceed $7,000: $921.50 plus 32½% of each dollar in excess of $5,500.
- $7,000 but does not exceed $8,500: $1,409.00 plus 40% of each dollar in excess of $7,000.
- $8,500 but does not exceed $10,000: $2,209.00 plus 42½% of each dollar in excess of $8,500.
- $10,000 but does not exceed $12,000: $2,646.50 plus 45% of each dollar in excess of $10,000.
- $12,000 but does not exceed $20,000: $3,546.50 plus 47½% of each dollar in excess of $12,000.
- $20,000: $7,346.50 plus 50% in respect of any excess.

B. COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies in respect of all outgoing business from Fiji, whether freight or passengers, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) 42½%.
(ii) Non-resident mutual insurance companies in respect of life insurance business 27½%.
(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 22½%.
(iv) Non-resident shipping companies in respect of all outgoing business from Fiji, whether freight or passengers 2%.
(v) Every other company 35%.

1 Table A substituted by §2 Act 1/1981 WEF 1st January 1981

FOURTH SCHEDULE

RATES OF NORMAL TAX

A.1 INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS

<table>
<thead>
<tr>
<th>When the chargeable income—does not exceed</th>
<th>$1,500</th>
<th>5% of each dollar of chargeable income in excess of $1,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>exceeds $1,500 but does not exceed</td>
<td>3,000</td>
<td>75.00 plus 10% of each dollar of chargeable income</td>
</tr>
<tr>
<td>exceeds $3,000 but does not exceed</td>
<td>4,000</td>
<td>225.00 plus 18% of each dollar in excess of $3,000</td>
</tr>
<tr>
<td>exceeds $4,000 but does not exceed</td>
<td>5,500</td>
<td>405.00 plus 27.5% of each dollar in excess of $4,000</td>
</tr>
<tr>
<td>exceeds $5,500 but does not exceed</td>
<td>7,000</td>
<td>817.50 plus 32.5% of each dollar in excess of $5,500</td>
</tr>
<tr>
<td>exceeds $7,000 but does not exceed</td>
<td>9,000</td>
<td>1,305.00 plus 37.5% of each dollar in excess of $7,000</td>
</tr>
<tr>
<td>exceeds $9,000 but does not exceed</td>
<td>15,000</td>
<td>2,055.00 plus 42.5% of each dollar in excess of $9,000</td>
</tr>
<tr>
<td>exceeds $15,000 but does not exceed</td>
<td>25,000</td>
<td>4,605.00 plus 45% of each dollar in excess of $15,000</td>
</tr>
<tr>
<td>exceeds $25,000 but does not exceed</td>
<td>40,000</td>
<td>9,105.00 plus 47.5% of each dollar in excess of $25,000</td>
</tr>
<tr>
<td>exceeds $40,000</td>
<td>16,230</td>
<td>plus 50% in respect of any excess</td>
</tr>
</tbody>
</table>

B.2 COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies in respect of all outgoing business from Fiji, whether freight or passengers, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) ......................................................... 45%

(ii) Non-resident mutual insurance companies in respect of life insurance business ........................................... 30%

(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 ......................... 30%

(iv) Non-resident shipping companies in respect of all outgoing business from Fiji, whether freight or passengers ................................................................................ 2%

(v) Every other company ........................................................................................................................................ 35%

---

1 Table A substituted by §14 Act 23/1985 WEF 1st January 1986
2 Table B substituted by §14 Act 23/1985 WEF 1st January 1986
VII. Years of assessment 1990, 1991, 1992 (1st January-30th June)\(^1\)

**FOURTH SCHEDULE**

**RATES OF NORMAL TAX**

A.\(^2\) INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS

<table>
<thead>
<tr>
<th>When the chargeable income— does not exceed</th>
<th>$1,500</th>
<th>4% of each dollar of chargeable income</th>
</tr>
</thead>
<tbody>
<tr>
<td>exceeds $1,500 but does not exceed</td>
<td>3,000</td>
<td>60.00 plus 8% of each dollar of chargeable income in excess of $1,500</td>
</tr>
<tr>
<td>exceeds $3,000 but does not exceed</td>
<td>4,000</td>
<td>180.00 plus 14.4% of each dollar in excess of $3,000</td>
</tr>
<tr>
<td>exceeds $4,000 but does not exceed</td>
<td>5,500</td>
<td>324.00 plus 22% of each dollar in excess of $4,000</td>
</tr>
<tr>
<td>exceeds $5,500 but does not exceed</td>
<td>7,000</td>
<td>654.00 plus 26% of each dollar in excess of $5,500</td>
</tr>
<tr>
<td>exceeds $7,000 but does not exceed</td>
<td>9,000</td>
<td>1,044.00 plus 30% of each dollar in excess of $7,000</td>
</tr>
<tr>
<td>exceeds $9,000 but does not exceed</td>
<td>15,000</td>
<td>1,644.00 plus 34% of each dollar in excess of $9,000</td>
</tr>
<tr>
<td>exceeds $15,000 but does not exceed</td>
<td>25,000</td>
<td>3,684.00 plus 36% of each dollar in excess of $15,000</td>
</tr>
<tr>
<td>exceeds $25,000 but does not exceed</td>
<td>40,000</td>
<td>7,284.00 plus 38% of each dollar in excess of $25,000</td>
</tr>
<tr>
<td>exceeds $40,000</td>
<td>12,984.00 plus 40% in respect of any excess</td>
<td></td>
</tr>
</tbody>
</table>

B. COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies in respect of all outgoing business from Fiji, whether freight or passengers, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) .................................................. 45%

(ii) Non-resident mutual insurance companies in respect of life insurance business ................................ 30%

(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 .............................. 30%

(iv) Non-resident shipping companies in respect of all outgoing business from Fiji, whether freight or passengers ........................................... 2%

(v) Every other company ........................................................................................................... 35%

---

1 See §7B for special rules of assessment and application of rates of tax for 1992 year of income
2 Table A substituted by §9 Decree 10/1990 WEF 1st January 1990
VIII. Years of assessment 1992 (1st July-31st December)\(^1\), 1993, 1994

FOURTH SCHEDULE\(^2\)

RATES OF NORMAL TAX FOR INDIVIDUALS, ESTATES OF
DECEASED PERSONS, TRUSTS AND SETTLEMENTS

A.\(^3\) RESIDENTS

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – 4,500</td>
<td>Nil</td>
</tr>
<tr>
<td>4,501 – 7,000</td>
<td>Nil + 15% of excess over $4,500</td>
</tr>
<tr>
<td>7,001 – 15,000</td>
<td>375 + 25% of excess over $7,000</td>
</tr>
<tr>
<td>15,001 +</td>
<td>2,375 + 35% of excess over $15,000</td>
</tr>
</tbody>
</table>

B. NON-RESIDENTS

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – 4,500</td>
<td>Nil + 20% of excess over 0</td>
</tr>
<tr>
<td>4,501 – 7,000</td>
<td>900 + 25% of excess over 4,500</td>
</tr>
<tr>
<td>7,001 – 15,000</td>
<td>1,525 + 30% of excess over 7,000</td>
</tr>
<tr>
<td>15,001 +</td>
<td>3,925 + 35% of excess over $15,000</td>
</tr>
</tbody>
</table>

C. COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies in respect of all outgoing business from Fiji, whether freight or passengers, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) \(.......................... 45\%\)

(ii) Non-resident mutual insurance companies in respect of life insurance business \(.......................... 30\%\)

(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 \(.......................... 30\%\)

(iv) Non-resident shipping companies in respect of all outgoing business from Fiji, whether freight or passengers \(.......................... 2\%\)

(v) Every other company \(.......................... 35\%\)

\(1\) See §7B for special rules of assessment and application of rates of tax for 1992 year of income

\(2\) Fourth Schedule substituted by §9(1) Act 2/1993 WEF 1st July 1992

\(3\) Table A previously substituted by §15 Decree 30/1992 WEF 1st July 1992 – previously read:

A. INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS

When the chargeable income:

- exceeds $4,500 but does not exceed $7,000 \(\text{Nil + 15\% of each dollar in excess of } $4,500\)
- exceeds $7,000 but does not exceed $15,000 \(\$375 + 25\% \text{ of each dollar in excess of } $7,000\)
- exceeds $15,000 \(\$2,375 + 35\% \text{ of each dollar in excess of } $15,000\)

FOURTH SCHEDULE

RATES OF NORMAL TAX FOR INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS

A.1 RESIDENTS

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – 5,000</td>
<td>Nil</td>
</tr>
<tr>
<td>5,001 – 7,000</td>
<td>Nil + 15% of excess over $5,000</td>
</tr>
<tr>
<td>7,001 – 15,000</td>
<td>300 + 25% of excess over $7,000</td>
</tr>
<tr>
<td>15,001 +</td>
<td>2,300 + 35% of excess over $15,000</td>
</tr>
</tbody>
</table>

B.2 NON-RESIDENTS

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – 4,500</td>
<td>Nil + 20% of excess over 0</td>
</tr>
<tr>
<td>4,501 – 7,000</td>
<td>900 + 25% of excess over 4,500</td>
</tr>
<tr>
<td>7,001 – 15,000</td>
<td>1,525 + 30% of excess over 7,000</td>
</tr>
<tr>
<td>15,001 +</td>
<td>3,925 + 35% of excess over $15,000</td>
</tr>
</tbody>
</table>

C. COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies in respect of all outgoing business from Fiji, whether freight or passengers, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) ..........................................................45%

(ii) Non-resident and resident mutual insurance companies in respect of life insurance business ........30%

(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 ..................................................30%

(iv) Non-resident shipping companies in respect of all outgoing business from Fiji, whether freight or passengers ...........................................................................................................................2%

(v) Every other company .................................................................................................................35%

1 Table A substituted by §7 Act 18/1995 WEF 1st January 1995
2 Table B substituted by §7 Act 18/1995 WEF 1st January 1995 – identical to Table B substituted by §9(1) Act 2/1993 WEF 1st July 1992
X. Years of assessment 1999, 2000

FOURTH SCHEDULE

RATES OF NORMAL TAX FOR INDIVIDUALS, ESTATES OF DECEASED PERSONS, TRUSTS AND SETTLEMENTS

A. RESIDENTS

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>0 – 6,500</td>
<td>Nil</td>
</tr>
<tr>
<td>6,501 – 8,500</td>
<td>Nil + 15% of excess over $6,500</td>
</tr>
<tr>
<td>8,501 – 15,500</td>
<td>300 + 25% of excess over $8,500</td>
</tr>
<tr>
<td>15,501 +</td>
<td>2,050 + 35% of excess over $15,500</td>
</tr>
</tbody>
</table>

B. NON-RESIDENTS

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>0 – 6,500</td>
<td>Nil + 20% of excess over 0</td>
</tr>
<tr>
<td>6,501 – 8,500</td>
<td>1,300 + 25% of excess over $6,500</td>
</tr>
<tr>
<td>8,501 – 15,500</td>
<td>1,800 + 30% of excess over $8,500</td>
</tr>
<tr>
<td>15,501 +</td>
<td>3,900 + 35% of excess over $15,500</td>
</tr>
</tbody>
</table>

C. COMPANIES

(i) Non-resident companies carrying on business in Fiji (other than non-Fiji shipping companies in respect of all outgoing business from Fiji, whether freight or passengers, non-Fiji mutual insurance companies in respect of life insurance business and non-Fiji proprietary or non-mutual insurance companies to the extent that the income of life insurance business is deemed to be mutual under subsection (1) of section 37) ........................................................................45%

(ii) Non-resident [and resident] mutual insurance companies in respect of life insurance business ........................................................................................................................30%

(iii) Non-resident or non-mutual insurance companies to the extent that the income of their life insurance businesses is deemed to be mutual under subsection (1) of section 37 .......................30%

(iv) Non-resident shipping companies in respect of all outgoing business from Fiji, whether freight or passengers ..................................................................................................................2%

(v) Every other company ..................................................................................................................35%

1 Table A substituted by §10 Act 3/1999 WEF 1st January 1999
2 Table B substituted by §10 Act 3/1999 WEF 1st January 1999
3 Inserted by §12 Act 10/1998 WEF 1st January 1999
APPENDIX B

PERSONAL ALLOWANCES AND DEDUCTIONS
FOR YEARS OF ASSESSMENT 1974 – 2000

This list provides general guidance to the value of the principal allowances and deductions which can be claimed by resident individuals and employees. The tables should not be regarded as a substitute for the actual legislation which should always be referred to. The relevant legislation is found in Part V, particularly sections 24 to 29 (pages 65 to 71). A number of the allowances are granted subject to complex restrictions, often involving the offsetting of other allowances.


<table>
<thead>
<tr>
<th>Section</th>
<th>Allowance/Deduction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25(1)(a)</td>
<td>Allowance for wife</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(b)</td>
<td>Allowance for widower with dependent child</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(c)</td>
<td>Allowance for widow with dependent child</td>
<td>$950</td>
</tr>
<tr>
<td>25(1)(d)</td>
<td>Allowance for widow without dependent child</td>
<td>$600</td>
</tr>
<tr>
<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
<td>$130</td>
</tr>
<tr>
<td>25(3)</td>
<td>Allowance for brother or sister (per sibling, maximum 2)</td>
<td>$130</td>
</tr>
<tr>
<td>25(4)</td>
<td>Allowance for other dependents (per dependent, maximum 2)</td>
<td>$100</td>
</tr>
<tr>
<td>26(1)</td>
<td>Superannuation &amp; FNPF contributions/life insurance premiums</td>
<td>$1,000</td>
</tr>
<tr>
<td>26(3)</td>
<td>Professional dues and journals</td>
<td>$40</td>
</tr>
<tr>
<td>26(4)</td>
<td>Equipment for physically incapacitated relatives</td>
<td>variable</td>
</tr>
<tr>
<td>27</td>
<td>Age allowance</td>
<td>$750</td>
</tr>
<tr>
<td>29</td>
<td>Education Allowance (per child, maximum 5)</td>
<td>$100 (Fiji) / $400 (overseas)</td>
</tr>
</tbody>
</table>

II. Years of assessment 1980, 1981

<table>
<thead>
<tr>
<th>Section</th>
<th>Allowance/Deduction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25(1)(a)</td>
<td>Allowance for wife</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(b)</td>
<td>Allowance for widower with dependent child</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(c)</td>
<td>Allowance for widow with dependent child</td>
<td>$950</td>
</tr>
<tr>
<td>25(1)(d)</td>
<td>Allowance for widow without dependent child</td>
<td>$600</td>
</tr>
<tr>
<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
<td>$200 (x2) $130 (x3)</td>
</tr>
<tr>
<td>25(3)</td>
<td>Allowance for brother or sister (per sibling, maximum 2)</td>
<td>$130</td>
</tr>
<tr>
<td>25(4)</td>
<td>Allowance for other dependents (per dependent, maximum 2)</td>
<td>$100</td>
</tr>
<tr>
<td>26(1)</td>
<td>Superannuation &amp; FNPF contributions/life insurance premiums</td>
<td>$1,000</td>
</tr>
<tr>
<td>26(3)</td>
<td>Professional dues and journals</td>
<td>$40</td>
</tr>
<tr>
<td>26(4)</td>
<td>Equipment for physically incapacitated relatives</td>
<td>variable</td>
</tr>
<tr>
<td>27</td>
<td>Age allowance</td>
<td>$750</td>
</tr>
<tr>
<td>29</td>
<td>Education Allowance (per child, maximum 5)</td>
<td>$100 (Fiji) / $400 (overseas)</td>
</tr>
</tbody>
</table>
### III. Years of assessment 1982, 1983

<table>
<thead>
<tr>
<th>Section</th>
<th>Allowance/Deduction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25(1)(a)</td>
<td>Allowance for wife</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(b)</td>
<td>Allowance for widower with dependent child</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(c)</td>
<td>Allowance for widow with dependent child</td>
<td>$950</td>
</tr>
<tr>
<td>25(1)(d)</td>
<td>Allowance for widow without dependent child</td>
<td>$600</td>
</tr>
<tr>
<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
<td>$200 (x2) $130 (x3)</td>
</tr>
<tr>
<td>25(3)</td>
<td>Allowance for brother or sister (per sibling, maximum 2)</td>
<td>$130</td>
</tr>
<tr>
<td>25(4)</td>
<td>Allowance for other dependents (per dependent, maximum 2)</td>
<td>$100</td>
</tr>
<tr>
<td>26(1)</td>
<td>Superannuation &amp; FNPF contributions/life insurance premiums</td>
<td>$1,000</td>
</tr>
<tr>
<td>26(3)</td>
<td>Professional dues and journals</td>
<td>$100</td>
</tr>
<tr>
<td>26(4)</td>
<td>Equipment for physically incapacitated relatives</td>
<td>variable</td>
</tr>
<tr>
<td>27</td>
<td>Age allowance</td>
<td>$750</td>
</tr>
<tr>
<td>29</td>
<td>Education Allowance (per child, maximum 5)</td>
<td>$100 (Fiji) / $400 (overseas)</td>
</tr>
</tbody>
</table>

### IV. Years of assessment 1984, 1985

<table>
<thead>
<tr>
<th>Section</th>
<th>Allowance/Deduction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25(1)(a)</td>
<td>Allowance for wife</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(b)</td>
<td>Allowance for widower with dependent child</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(c)</td>
<td>Allowance for widow with dependent child</td>
<td>$950</td>
</tr>
<tr>
<td>25(1)(d)</td>
<td>Allowance for widow without dependent child</td>
<td>$600</td>
</tr>
<tr>
<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
<td>$200 (x2) $130 (x3)</td>
</tr>
<tr>
<td>25(3)</td>
<td>Allowance for brother or sister (per sibling, maximum 2)</td>
<td>$130</td>
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<td>25(4)</td>
<td>Allowance for other dependents (per dependent, maximum 2)</td>
<td>$100</td>
</tr>
<tr>
<td>26(1)</td>
<td>Superannuation &amp; FNPF contributions/life insurance premiums</td>
<td>$1,000</td>
</tr>
<tr>
<td>26(3)</td>
<td>Professional dues and journals</td>
<td>$100</td>
</tr>
<tr>
<td>26(3A)</td>
<td>Trade Union dues</td>
<td>$20</td>
</tr>
<tr>
<td>26(4)</td>
<td>Equipment for physically incapacitated relatives</td>
<td>variable</td>
</tr>
<tr>
<td>27</td>
<td>Age allowance</td>
<td>$750</td>
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<tr>
<td>29</td>
<td>Education Allowance (per child, maximum 5)</td>
<td>$100 (Fiji) / $400 (overseas)</td>
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</tbody>
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<table>
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<tr>
<th>Section</th>
<th>Allowance/Deduction</th>
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<td>Allowance for widower with dependent child</td>
<td>$750</td>
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<tr>
<td>25(1)(c)</td>
<td>Allowance for widow with dependent child</td>
<td>$950</td>
</tr>
<tr>
<td>25(1)(d)</td>
<td>Allowance for widow without dependent child</td>
<td>$600</td>
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<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
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<tr>
<td>25(3)</td>
<td>Allowance for brother or sister (per sibling, maximum 2)</td>
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</tr>
<tr>
<td>26(3)</td>
<td>Professional dues and journals</td>
<td>$100</td>
</tr>
<tr>
<td>26(3A)</td>
<td>Trade Union dues</td>
<td>$20</td>
</tr>
<tr>
<td>26(4)</td>
<td>Equipment for physically incapacitated relatives</td>
<td>variable</td>
</tr>
<tr>
<td>27</td>
<td>Age allowance</td>
<td>$750</td>
</tr>
<tr>
<td>29</td>
<td>Education Allowance (per child, maximum 5)</td>
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</tbody>
</table>

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<th>Section</th>
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</thead>
<tbody>
<tr>
<td>25(1)(a)</td>
<td>Allowance for wife</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(b)</td>
<td>Allowance for widower with dependent child</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(c)</td>
<td>Allowance for widow with dependent child</td>
<td>$950</td>
</tr>
<tr>
<td>25(1)(d)</td>
<td>Allowance for widow without dependent child</td>
<td>$600</td>
</tr>
<tr>
<td>25(1)(A)</td>
<td>Allowance for Legally Separated Spouse</td>
<td>$750</td>
</tr>
<tr>
<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
<td>$130</td>
</tr>
<tr>
<td>25(3)</td>
<td>Allowance for brother or sister (per sibling, maximum 2)</td>
<td>$130</td>
</tr>
<tr>
<td>25(4)</td>
<td>Allowance for other dependents (per dependent, maximum 2)</td>
<td>$100</td>
</tr>
<tr>
<td>26(1)</td>
<td>Superannuation &amp; FNPF contributions/life insurance premiums</td>
<td>$1,000</td>
</tr>
<tr>
<td>26(3)</td>
<td>Professional dues and journals</td>
<td>$100</td>
</tr>
<tr>
<td>26(3A)</td>
<td>Trade Union dues</td>
<td>$20</td>
</tr>
<tr>
<td>26(4)</td>
<td>Equipment for physically incapacitated relatives</td>
<td>variable</td>
</tr>
<tr>
<td>27</td>
<td>Age allowance</td>
<td>$750</td>
</tr>
<tr>
<td>29</td>
<td>Education Allowance (per child, maximum 5)</td>
<td>$100 (Fiji) / $400 (overseas)</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Section</th>
<th>Allowance/Deduction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25(1)(a)</td>
<td>Allowance for wife</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(b)</td>
<td>Allowance for widower with dependent child</td>
<td>$750</td>
</tr>
<tr>
<td>25(1)(c)</td>
<td>Allowance for widow with dependent child</td>
<td>$950</td>
</tr>
<tr>
<td>25(1)(d)</td>
<td>Allowance for widow without dependent child</td>
<td>$600</td>
</tr>
<tr>
<td>25(1)(A)</td>
<td>Allowance for Legally Separated Spouse</td>
<td>$750</td>
</tr>
<tr>
<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
<td>$200</td>
</tr>
<tr>
<td>26(1)</td>
<td>Superannuation &amp; FNPF contributions/life insurance premiums</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

VIII. Year of assessment 1999

<table>
<thead>
<tr>
<th>Section</th>
<th>Allowance/Deduction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25(1)(a)</td>
<td>Allowance for wife</td>
<td>$1,000</td>
</tr>
<tr>
<td>25(1)(b)</td>
<td>Allowance for widowed taxpayer</td>
<td>$1,000</td>
</tr>
<tr>
<td>25(1)(A)</td>
<td>Allowance for Legally Separated Spouse</td>
<td>$1,200</td>
</tr>
<tr>
<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
<td>$300</td>
</tr>
<tr>
<td>26(1)</td>
<td>Superannuation &amp; FNPF contributions/life insurance premiums</td>
<td>$1,500</td>
</tr>
</tbody>
</table>

IX. Year of assessment 2000

<table>
<thead>
<tr>
<th>Section</th>
<th>Allowance/Deduction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25(1)(a)</td>
<td>Allowance for wife</td>
<td>$1,200</td>
</tr>
<tr>
<td>25(1)(b)</td>
<td>Allowance for widowed taxpayer</td>
<td>$1,000</td>
</tr>
<tr>
<td>25(1)(A)</td>
<td>Allowance for Legally Separated Spouse</td>
<td>$1,200</td>
</tr>
<tr>
<td>25(2)</td>
<td>Allowance for children (per dependent child, maximum 5)</td>
<td>$500 (x2) $300 (x3)</td>
</tr>
<tr>
<td>26(1)</td>
<td>Superannuation &amp; FNPF contributions/life insurance premiums</td>
<td>$1,500 per spouse</td>
</tr>
</tbody>
</table>