



Practice Statement
No. 2

SUBJECT	FIJI REVENUE & CUSTOMS AUTHORITY Duty Concession Code 212
DATE OF EFFECT	31 January 2017
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCE	<i>Customs Act 1986, Customs Tariff Act 1986, Customs Regulations 1986 and Local and International Guideline (Department Instruction, Safe Framework of Standard, Arusha Declaration, Revised Kyoto Convention and Universal Postal Union).</i>
PRACTICE COORDINATOR	Director Border

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INTRODUCTION

1. The purpose of this Practice Statement is to provide guidance on the Customs clearance for concession goods applicable under Code 212. It is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Revenue and Customs Authority (FRCA) who is also the Comptroller of Customs.
2. FRCA is responsible for the collection and administration of tax on the importation of goods under the Customs Act 1986. FRCA officers stationed at ports of entry are responsible for border protection, revenue collection and trade facilitation.
3. All imported goods are subject to customs control, from the time of importation until removal for use in Fiji or until exportation, whichever event occurs first.
4. Clearance or removal for home use means the procedure which provide the imported goods entry into free circulation in the customs territory upon the payment of any import duties and taxes chargeable and the accomplishment of all the necessary customs formalities.
5. This Practice Statement applies to goods imported by a private individual and cleared at an Air Freight Cargo Station or Post Offices (Parcel Post) and which are eligible for Concession Code 212. It also explains the administration process at the front line.
6. Concession Code 212 applies to the specified persons eligible for concession which are provided for under the Customs Tariff Act 1986 - Part 3. It is part of the relief from import duties and tax for goods that may be granted on philanthropic or humanitarian grounds or may be based on the consideration of equity.
7. The intention for duty relief on such goods is to encourage the development of education, science, culture, to foster harmonious international relations or for administrative convenience to avoid expenditure that would be out of proportion to the amount collected.
8. In granting relief, economic factors are also considered.
9. Relief from import duties and taxes means the clearance of goods for home use free of import duties and taxes. This applies irrespective of their normal tariff

classification or normal liability, provided that they are imported for the specified purpose.

10. The table below illustrates the concession code, person or bodies eligible, import duty rate that will be affected, the condition to be met and whom to sign the certificate if required.

Code	Person or bodies	Goods eligible for duty Concession	Import duty Rates			Conditions	Certificate to be signed by
			Fiscal	Import excise	VAT		
212	Private Individual	All goods except liquor and cigarette	Free	Free	Free	<p>The value for duty of such goods should not exceed \$400.00.</p> <p>The goods must be for the personal use of the addressee or the importer</p> <p>The goods must not be sold or used for commercial purposes.</p> <p>The goods must be imported by parcel post or airfreight</p> <p>The customs officer may, at his discretion, treat more than one parcel consigned to the same or several consignees as a single parcel and in such cases duty may be assessed accordingly.</p> <p>The value of goods above refers to the price paid or payable in the sale transaction.</p>	Certificate not required

LEGISLATIVE BASIS

11. The provisions relating to goods that are subject to customs control are set out as follows:
 - *Customs Act* 1986 - Sections 7,8, 9,10,27,29,31,63,88,89,90,91,92,93 and 114;
 - *Customs Regulations* – Regulation 103,104,107,108,109,127, 128 and 152;
 - *Customs Tariff Act* - Section 3, 6, 7, 10 and 17.
12. Furthermore, the condition of List of goods/person eligible for concession chapter note of the Customs Tariff Act 1986 Part 3 states:
 - (a) concession is to be claimed at the point of importation or at the time of clearance from a bonded warehouse by the person specified in the table above;
 - (b) all goods except liquor and cigarettes and should be addressed to a private individual;
 - (c) use of the goods, type of the goods, kind and quantity shall be used by private individuals only.

APPLICATION

13. Upon the arrival of the owner/importer/addressee or person authorized by the addressee (private individual) at the Custom Office (Airfreight station/Parcel Post) the post office staff or agent is required to produce the parcel to the Customs Officers for movement control and the Parcel Notification and Duty Entry (PNDE) /Airway bill, as stipulated in Section 88 (2) of the Customs Act.
14. Physical Examination of the parcel must be carried out by the Customs Officer in the presence of the post office official or agent, importer, addressee or the person authorized by the addressee. For security reasons all parcel must be opened by the importer, addressee or the person authorized by the addressee for the Customs Officer to examine the goods. The person is required to produce FRCA Tax Identification Card or Tax Identification Letter.
15. For valuation purposes, document such as invoice, permit etc. must be provided. For parcel post and airfreight parcels, the Comptroller may accept customs declaration used in the country of origin to assess the duty or for valuation purpose in accordance with Section 90 of the *Customs Act*.

Example 1

Mrs. X is a Chinese national who is working in Fiji under work permit. During the first 3 months of her stay here in Fiji she is not used to Fijian snacks and makes arrangements for her family member back in China to send her snacks every week.

While conducting physical examination of the imported snacks in the presence of Mrs. X and the postal agent, the Customs officer at site found that code 212 was applicable as all the conditions in Column 7 were met. Her parcel was cleared under Concession Code 212 and released accordingly.

Example 2

Mr. Jese's birthday is coming up and his cousin a British army soldier decided to surprise him. He bought Jese a watch worth 400 pounds and airfreights it to Fiji through W&G Airfreight at Wailada, Lami. The parcel arrived and the W&G airfreight operator informed him that his parcel was ready for collection.

Upon physical verification of the parcel by Customs Officer in the presence of Mr Jese and the airfreight agent, it was found that the item was really a watch as declared in the air way bill and the invoice on the package showed that the value was 400 pounds.

The exchange rate for that week to convert the currency to Fijian dollars and the Custom's Officer found that the value was more than the \$400 FJD condition.

The proper officer informed Mr. Jese that the item did not qualify for concession as the value exceeded \$400FJD. The Customs officer calculates the duty by taking into account the rate applicable on the chapter and heading of the Customs Tariff for watch. Mr. Jess was informed on the total duty payable. Jess was willing to pay the duty and the Customs Officer created the necessary customs entries (a BA 4 in the Asycuda Syste), Mr. Jess paid the duty, received his receipt from the officer and the parcel was given to him.

Example 3

Mr. B a diagnose heart patient decided to import some of his drugs from New Zealand because its much cheaper compared to the ones available locally. He bought it through the internet and the supplier used the postal service to send it over. He received his parcel notification of arrival and headed straight to Post Fiji Suva to clear it.

Upon physical verification of the parcel by the Customs Officer in the presence of Mr B and the postal agent, it was found to be drugs as declared in the PNDE. The Customs Officer asked the owner to explain what the drugs were for and Mr. B replied that it was medication for his heart problem. The officer informed him that the drugs would be detained for verification with the Government Pharmacy and advised him to provide a medical certificate from a registered medical practitioner to prove his medical condition.

The Government Pharmacy confirmed to the Customs Officer that the drug found was for heart patients. Mr.B arrived with medical certificate the next morning and the officer cleared his parcel manually in the PNDE before releasing the goods..

16. Physical inspection (power to examination under Section 114 (1) and (2) of the Customs Act 1986 is carried out to verify the description and quantity of goods in the document provided against the physical goods found and for valuation purpose.
17. Physical goods will be assessed against the condition of code 212 i.e. the value to be \$400FJD or less, for personal use and not for sale or commercial use.
18. Goods that meet the entire requirement above will be repacked by the owner and the Customs Officer to release the cargo formally on the Parcel Notification and Duty Entry.
19. Goods sent as a gift by relative from overseas to a private individual in Fiji may also qualify under Concession Code 212. However, gifts will only be considered to be personal if it:
 - (a) is addressed to a private person by or on behalf of another private person abroad
 - (b) is occasional;
 - (c) consists only of goods for personal use by the addressee or his family and is not commercial in nature;
 - (d) is valued at \$400FJD or less and is imported by parcel post or airfreight.

Example 4

Mr. Bean a tertiary student found a penis enlargement instrument and pill on the Internet and decided to buy it. The supplier shipped it using the postal service and Mr Bean went to clear it at the post office when he received the arrival notice.

The Customs Officer at the Post Office conducted a physical verification of the parcel in the presence of the owner and the postal agent. He found the two goods and in his opinion both were absolutely prohibited goods under the Schedule 1 of the Customs Prohibited Import and Export Regulation 1986 as a good which was a matter of sex and Mr Bean was informed accordingly.

Mr.Bean told the Officer that he was not aware that the two goods is a prohibited import and this is the first time his importing it. The Customs officer was satisfied with Mr Bean’s explanation and informed him that the goods would be detained. The Officer also informed Mr Bean that the goods detained can be released if he furnished a letter from a registered medical practitioner allowing him to use the above goods due to his medical condition.

He was also informed that he could appeal against the notice of seizure if he wanted the items back and that the final process would be court proceedings. Mr Bean replied that he didn’t want the item but asked the officer what he was going to do with it. The proper officer issued a Detention Notice to Mr. Bean and also a notice of seizure. The customs officer advised that Mr Bean would be required to endorse on the notice of seizure that he didn’t want the item as per discussion above for the Comptroller to condemn it in any way suitable.

Goods found were condemned under Section 3 of the Customs Prohibited Imports and Exports Regulation 1986 under the power of the Comptroller after endorsement by the relevant Team Leader

PROCESS

20. Where goods imported by private individuals do not meet the concession conditions the process under Section 17 of the *Customs Tariff Act 1986*, the following will apply:
 - (i) goods will be liable for duty; or
 - (ii) put to such other use as determined by the Comptroller.

Application of duty under Section 3 (d) (i) of the Customs Tariff Act 1986 to goods.

21. Duties will be collected and paid under Section 3 of the *Custom Tariff Act 1986* on the BA4 entries as specified in the Public Circular 31/2012.
22. Customs duties include Fiscal duty, Excise duty and VAT. All the goods with value more than \$400 FJD will be assessed as follows:

- (i) The Cost Insurance and Freight value of the transaction value will be taken as value for duty.
- (ii) The amount of duty to be paid will depend on the Chapter and heading the goods fall in the Custom Tariff (H/S) and the rate of duties at the time of importation (Section 93 of the *Customs Act*).
- (iii) The rate of exchange that will be used will be based on Section 10 of the *Customs Tariff Act 1986*
- (iv) Under Section 7 of the *Customs Tariff Act* goods with alternative rates of duty, the highest of that rate will apply
- (v) Freight will be calculated by taking in to account three quarter of the actual air postage/actual air freight charges
- (vi) The proper officer will
 - raise a BA4 in the Asycuda system to assess the duty;
 - issue a receipt to the owner upon payment of the duty payable; and
 - release the goods accordingly.

23. Application of note 10 disposal or use of goods other than the duty concession was granted under Section 17 of the Customs Tariff Act 1986 for goods and person.

- (i) Goods to be to duty paid as above.
- (ii) Person who dispose or use concession goods for any other purpose other than the freedom of duty was granted shall:
 - Make report to the Comptroller in such manner that the Comptroller requires to enable duty to be levied
 - A person who fail to make such report within 14 days is guilty of an offence and is liable to a fine not exceeding \$1000 and goods the subject matter of the offence are liable for forfeiture
 - A person who acquire, use, deal the goods apart from the condition the freedom of duty is granted within 5 years from the importation of such goods is guilty of an offence and are liable to a fine not exceeding \$1000 and the goods are liable for forfeiture.

Prohibited and Restricted goods

24. Goods that are absolutely prohibited under Schedule 1 of the *Customs Prohibited Import and Restricted Export Regulation 1986* imported by private individual will be detained under the power of officers Section 129 (1) and (2) of the *Customs Act* and necessary proceedings will follow as stipulated in the Customs Practice Statement for Prohibited and Restricted goods (Customs PS#1 2017)

25. For prohibited goods and restricted goods that fall under Schedule 2-5 of the *Customs Prohibited Import and Export Regulation* the importer will be required to:

- produce a valid license, permit or approval document from the relevant ministry or regulatory authority before the good can be released e.g. mobile phone will need an import permit from the Telecommunications Authority of Fiji.
 - Goods imported without any license/permit or approval from the department concerned will be detained under Section 129 (1) and (2) of the *Customs Act* 1986 for verification.
 - Goods will be released if permit are not required as confirmed by relevant authority or upon production of a valid permit to the Customs officer concerned.
- (i) Control goods without proper license from the authority concerned will be disposed of in any way as determined by the Comptroller under Section 17 of the *Customs Tariff Act*. The procedure is explained in the Customs Practice Statement #1 of 2017.

Responsibilities of respective parties

26. Private individuals are responsible:

- (i) for ensuring that goods meet the condition of Concession Code 212;
- (ii) for providing adequate assurance at the border that the goods being imported meet regulatory requirements;
- (iii) for seeking information from the appropriate authority to ensure that they comply with the law before attempting to import restricted goods.

27. Most perpetrators used personal items for private individual to conceal illicit drugs due to speed and the safety of this mode of importation. For that reasons it warrant:

- consultation between Customs, private individual (importers) and Parcel Post/ Airfreight operators on the way forward.
- enforcement of the memorandum of understanding between Customs Cooperation Council and the Universal Postal Union.
- proper training to airfreight operators and postal agencies
- conducting risk assessment to detect suspicious parcels and bring them to the attention of Customs at the point of exportation and upon the goods arrival before clearance.

For enquiries, please contact Taxpayer Education & Publicity Unit (TEPU) team on: Email info@frca.org.fj or Phone: 3243504/ 3243505 .

=====*End of Practice Statement*=====