



**PRACTICE  
STATEMENT No. 40/2016**

<b>SUBJECT</b>	<b>FIJI REVENUE &amp; CUSTOMS AUTHORITY</b>  <b>1 % Transitional Tax on Undistributed Profits For The Tax Years 2014 &amp; 2015</b>
<b>DATE OF EFFECT</b>	<b>1<sup>st</sup> January 2016</b>
<b>CONFIDENTIALITY STATUS</b>	May be released to the public
<b>LEGISLATIVE REFERENCE</b>	<i>Income Tax Act 2015 - Sections 143(7), 143 (9A) Tax Administration Act, 2009</i>
<b>PRACTICE CO-ORDINATOR</b>	National Manager Revenue Collection

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

## **INTRODUCTION**

1. The purpose of this Practice Statement is to provide guidance on the taxation of undistributed after-tax profits of a company for the tax years 2014 and 2015. It is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Revenue & Customs Authority (FRCA).
2. A company's profits for the tax years 2014 and 2015 is subject to a final tax of 1% tax (referred to hereinafter as "Transitional Tax") if it has not been distributed (i.e. paid or credited) to shareholders.
3. Any subsequent distribution of profits that has been subject to the 1% Transitional Tax is exempt from dividend tax. The taxation of dividends is covered in Practice Statement 39/2016.

## **LEGISLATIVE BASIS**

4. Section 143(7) and section 143 (9A) of the *Income Tax Act 2015* provides for the imposition of a Transitional Tax at the rate of 1% on a company's undistributed profits for the tax years 2014 and 2015.
5. Section 143 (7) states :

*"(7) If any part of the net profit after tax of a company for the tax year commencing on 1 January 2014 or equivalent substituted tax year has not been distributed as a dividend prior to 1 January 2015, the company shall pay tax on the undistributed amount at the rate of 1% and the tax is due on March 31, 2016."*

6. Section 143 (9A) states :

*"(9A) If any part of the net profit after tax of a company for the tax year commencing on 1 January 2015 or equivalent substituted tax year has not been distributed as a dividend prior to 30 June 2016, the company shall pay tax on the undistributed amount at the rate of 1% and the tax is due on 30 September 2016."*

7. "Tax year" is defined in section 2 to mean the calendar year and includes a substituted tax year. Information on the start and end dates for the tax years 2014 and 2015 respectively are provided in Attachment 1.

## **APPLICATION**

8. The following companies are liable to pay Transitional Tax –
  - resident companies, except a company listed on the South Pacific Stock Exchange;
  - non-resident companies operating in Fiji, including a permanent establishment of a non-resident company *e.g. branches*.

9. The 1% Transitional Tax is charged on the accounting net profit. In this regard, a company with approved tax concessions and a company that has exempt income is also liable for the Tax. Further guidance is given in the examples in Attachment 2.

## **PROCESS**

10. For tax purposes, a dividend distribution is deemed to be made from retained earnings in the order in which such profits have accumulated. The chronological order of distribution of profits is to be maintained by companies for compliance purposes. It is important that the amount of retained earnings for the years prior to the 2014 tax year are identifiable as the tax treatment is different. The following applies -
- only undistributed profits for the tax years 2014 and 2015 are subject to Transitional Tax 1% tax and future distribution are exempt;
  - any pre 2014 profits distributed from the 2016 tax year onwards are subject to 3% resident dividend withholding tax or 9% non-resident withholding tax at the time of distribution.
11. The due dates for payment of the 1% Transitional Tax are as follows:
- (a) 2014 tax year
- where there is any undistributed profit by 1<sup>st</sup> January, 2015, the tax is due and payable on or before 31<sup>st</sup> March, 2016;
- (b) 2015 tax year
- where there is any undistributed profit by 30<sup>th</sup> June 2016, the tax is due on or before 30<sup>th</sup> September, 2016.
12. A company may request in writing for time to pay the Transitional Tax due. The CEO's approval will depend on the facts of each case.
13. Where a company makes a future distribution of 2014 and 2015 profits that have been subject to 1% Transitional Tax, it is exempt from dividend tax.
14. The general rules relating to the imposition and review of late payment penalties provided for in the *Tax Administration Act 2009* applies to any late payment of the 1% Transitional Tax.
15. For further information, please write to [tepu@frca.org.fj](mailto:tepu@frca.org.fj) or [info@frca.org.fj](mailto:info@frca.org.fj).

## **ATTACHMENT 1**

Tabled below are the start and end dates for the tax years 2014 and 2015 respectively and the due dates for payment of Transitional Tax”.

<b>Tax Year Start Date</b>	<b>Tax Year End</b>	<b>Tax Year</b>	<b>Due Date for Payment</b>
1 <sup>st</sup> August, 2013	31 <sup>st</sup> July, 2014	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> September, 2013	31 <sup>st</sup> August, 2014	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> October, 2013	30 <sup>th</sup> September, 2014	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> November, 2013	31 <sup>st</sup> October, 2014	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> December, 2013	30 <sup>th</sup> November, 2014	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> January, 2014	31 <sup>st</sup> December, 2014	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> February, 2014	31 <sup>st</sup> January, 2015	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> March, 2014	28 <sup>th</sup> February, 2015	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> April, 2014	31 <sup>st</sup> March, 2015	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> May, 2014	30 <sup>th</sup> April, 2015	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> June, 2014	31 <sup>st</sup> May, 2015	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> July, 2014	30 <sup>th</sup> June, 2015	2014	31 <sup>st</sup> March, 2016
1 <sup>st</sup> August, 2014	31 <sup>st</sup> July, 2015	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> September, 2014	31 <sup>st</sup> August, 2015	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> October, 2014	30 <sup>th</sup> September, 2015	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> November, 2014	31 <sup>st</sup> October, 2015	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> December, 2014	30 <sup>th</sup> November, 2015	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> January, 2015	31 <sup>st</sup> December, 2015	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> February, 2015	31 <sup>st</sup> January, 2016	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> March, 2015	29 <sup>th</sup> February, 2016	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> April, 2015	31 <sup>st</sup> March, 2016	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> May, 2015	30 <sup>th</sup> April, 2016	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> June, 2015	31 <sup>st</sup> May, 2016	2015	30 <sup>th</sup> September, 2016
1 <sup>st</sup> July, 2015	30 <sup>th</sup> June, 2016	2015	30 <sup>th</sup> September, 2016

## ATTACHMENT 2

### **Example 1 Transitional tax for a company with a tax profit**

XCO's tax year 2014 ended on 30<sup>th</sup> September 2014 with the following financial performance:

- i. net profit - \$80,000;
- ii. retained earnings - \$100,000 at the beginning of the financial year;
- iii. normal tax on chargeable income - \$20,000 (20% of \$100,000)
- iv. declared dividend of \$120,000 on 31<sup>st</sup> October 2014 , which was paid on 1<sup>st</sup> December, 2014.

Calculation of the transitional tax payable by XCO for the tax year 2014

<b>Particulars</b>	<b>Amount</b>	<b>Explanatory Notes</b>
Accounting Net Profit	\$80,000	Amount of Net profit shown in the Profit & Loss Statement of the company.
<i>Less:</i> Income Tax	\$20,000	Amount of income tax paid on the chargeable income of the company.
Profit after tax	\$60,000	Accounting Net Profit less income tax payable.
Retained earnings at the beginning of the current tax year	\$100,000	Amount of retained earnings in the Balance Sheet of the company at the end of the pervious financial year.
Total dividend paid	\$120,000	Total dividend paid on 1 <sup>st</sup> December, 2014.
Dividend paid from the retained earnings at the beginning of the year	\$100,000	Amount of dividend payable for the current financial year will be first accounted from beginning balance of the current tax years retained earnings in chronological order.
Dividend paid from the current year's profit	\$20,000	Balance of the dividend that will be paid from the current tax year's profit. <b>Note:</b> <i>If dividend for 2014 is not paid by 1/01/2015, the full amount of 2014 profit will be subject to 1% transitional tax. (In reference with section 143(7) of ITA 2015.</i>
Undistributed profit for the current year	\$40,000	Profit after tax less amount of dividend paid from the 2014 year's profit. (60,000 - 20,000)
1% transitional tax on undistributed profits	\$400	1% of the undistributed profit for the current year.

**Example 2: Transitional tax for a companies making a loss**

YCO's tax year 2015 ended on 31<sup>th</sup> December, 2015 with the following financial performance for the year:

- i. net loss - \$20,000 ; however chargeable income was \$5000
- ii. retained earnings - \$50,000 at the beginning of the year;
- iii. income tax payable on chargeable income - \$1,000 (20% of \$5,000); and
- iv. \$30,000 dividend declared on 15/01/16 to be paid by 01/04/16.

Calculation of the transitional tax payable by YCO for the tax year 2015

<b>Particulars</b>	<b>Amount</b>	<b>Explanatory Notes</b>
Accounting Net Loss	\$20,000	Amount of net loss shown in the Profit & Loss Statement of the company.
<i>Less:</i> Income Tax	\$1,000	Amount of income tax paid on the chargeable income of the company. A company may have an accounting net loss but can have chargeable income instead of chargeable loss.
Profit after tax	-	Profit after tax will be zero because the company has accounting net loss even though \$1,000 tax is payable but 1% transitional tax will be computed using the figures of accounting profit or accounting loss not the chargeable income.
Retained earnings at the beginning of the year	\$50,000	Amount of retained earnings in the Balance Sheet of the company at the end of the previous financial year.
Total dividend paid	\$30,000	Total dividend paid by the company for current financial year.
Dividend paid from the retained earnings at the beginning of the year	\$30,000	Amount of dividend payable for the current financial year will be first accounted from beginning balance of the retained earnings in chronological order.
Dividend paid from the current year's profit	-	It will be zero because company had the net loss in the current year.
Undistributed profit for the current year	-	Undistributed profit for the current year will be zero because company had the net loss in the current year.
1% transitional tax on undistributed profits	-	There will be no 1% transitional tax payable because undistributed profit for the current year is zero.

**Example 3: Calculation of Transitional Tax payable where company has tax incentive or exempt income**

<p>ZCO's tax year 2015 ended on 31<sup>th</sup> December, 2015 with the following financial performance for the year:</p> <ol style="list-style-type: none"> <li>net profit - \$100,000;</li> <li>retained earnings - \$20,000 at the beginning of the year;</li> <li>income exemption of \$10,000 and export deduction incentive of \$20,000.</li> <li>\$50,000 dividend declared on 31/12/15 and paid out on 15/07/16.</li> </ol> <p>Calculation of the Transitional Tax payable by ZCO for the tax year 2015.</p> <p><b>Step1 - Calculate the income tax to be paid by ZCO on chargeable income.</b></p>		
Particulars	Amount	Explanatory Notes
Accounting Net Profit	\$100,000	Amount of Net profit shown in the Profit & Loss Statement of the company.
<i>Less:</i>	Exempt Income	10,000
	Deductions	20,000
		Deduct exempt income.
		Deduct applicable deductions granted for the company to calculate the chargeable income.
Chargeable Income	70,000	Amount on which income tax will be calculated.
Income Tax	14,000	20% tax on chargeable income
<b>Step 2 - Calculate the 1% transitional tax payable by ZCO for 2015 tax year</b>		
Particulars	Amount	Explanatory Notes
Accounting Net Profit	\$100,000	Amount of Net profit shown in the Profit & Loss Statement of the company.
<i>Less:</i> Income Tax	\$14,000	Income tax on chargeable income.
Profit after tax	\$86,000	Accounting Net Profit less income tax payable.
Retained earnings at the beginning of the year	\$20,000	Amount in ZCO Balance Sheet at the end of the previous financial year.
Total dividend paid	\$50,000	Total dividend paid by the company for the 2015 financial year.
Dividend paid from the retained earnings at the beginning of the current tax year	\$20,000	Amount of dividend payable will be first accounted from the retained earnings in chronological order.
Dividend paid from the current year's profit	\$30,000	For the purpose of calculating the transitional tax for 2015, dividends paid after 30/06/16 will not be taken into account.
Undistributed profit after tax by 1 <sup>st</sup> January 2015	\$56,000	Profit after tax.
1% transitional tax on undistributed profits	\$560	1% of the undistributed profit by 30th September 2016

**End of PS**

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