

Talk Tax - 2015 Tax Amnesty

FS: What is the purpose of this Tax Amnesty?

CEO: The purpose for the 2015 Tax Amnesty is assist taxpayers by full waiver of administrative penalties for all taxpayer whose accounts are in arrears as at 31st December 2014 and to allow time for Fijians paying taxes in Fiji to voluntary declare their offshore assets and foreign investments. Tax Amnesty Program which was supposed to have ended in June has been extended due to requests from stakeholders. The Tax Amnesty Program is now extended to 15 October 2015 which would provide a reasonable time for taxpayers to comply and take advantage of the 2015 Tax Amnesty Program.

FS: What is your authority for waiving the penalty?

CEO: Sections 48 and 48A of the Tax Administration Decree give the authority for the waiver of penalty as well as assessed tax. A person liable to pay a penalty may apply in writing to the CEO for remission of the penalty payable and such application must include the reasons for the remission. The CEO may, upon application or on the CEO's own motion, remit, in whole or in part, any penalty payable by a person.

FS: Some fear that whilst you'll get them to declare their assets you will assess and charge them tax retrospective?

CEO: Section 48A of the Tax Administration Decree lays down the law clearly that there will be no retrospective tax assessments on source or taxable income streams following declaration of foreign assets within the amnesty period. According to the Tax Administration Decree the Chief Executive Officer shall, as the case requires, remit in whole any tax payable by the qualifying person in respect of the foreign asset, including any interest accrued from, or any penalty or fine payable, in respect of such tax for any tax period provided that the tax period is prior to 1 January 2016. If an applicant is not granted amnesty, the Chief Executive Officer shall, as soon as practicable, provide written reasons to the applicant for the refusal..

FS: What are conditions for waiving penalty for arrears?

CEO: Full waiver of penalties will be granted to taxpayers facing financial difficulties in payment of their tax obligations as at 31/12/14. This amnesty will cover all penalties imposed on tax liabilities. The taxpayer must accept the tax liability and reasonably prove inability to make a lump sum payment of the liability. Reasonable documentary evidence to prove "inability to pay lump sum" may include cash flow statements, debt/equity ratios, and statement of other liabilities, evidence of major default of payment obligations other than with Tax Office, and the like.

FS: What penalties are covered under this tax amnesty?

CEO: The penalties that may be remitted are: Late lodgment penalty; Late payment penalty; Failing to maintain proper record; Breach for possession agreement; and Insufficient Advance Payment Penalty (IAPP). The waiver of penalties incentives for taxpayers, who come forward, are that generally, penalties other than those imposed under section 46 of the Tax Administration Decree (TAD) will be waived.

FS: What type of penalty cannot be waived under Section 46 of the Tax Administration Decree?

CEO: Section 46 of the Tax Administration Decree states that any person who makes a statement to a tax officer that is false or misleading in a material particular or omits from a statement made to a tax officer any matter or thing without which the statement is false or misleading in a material particular; and the tax liability of the person or of another person computed on the basis of the statement is less than it would have been if the statement had not been false or misleading (the difference being referred to as the "tax shortfall"). The penalties associated with this section will not be waived.

FS: What will amnesty do for the declaration offshore assets?

CEO: This means that all Fijians (Fiji citizens paying taxes in Fiji) who have assets outside of Fiji and have not declared these assets in Fiji, are given until 15 October 2015 to declare all their foreign assets. Declaration of offshore assets includes all the classes of assets owned directly – jointly and/or severally, in partnership or indirectly via corporate/company or trust structures and includes Bank Deposits, Shares in a company or property, Real Estate, Advances and Loans to related or unrelated parties and Term life Insurance.

FS: How does the Amnesty for the declaration of offshore assets assist those that have foreign assets and declare then now?

CEO: The Amnesty for the Declaration of Offshore Assets grants full waiver of any penalties, any fines, and any taxable charge on all the assets owned by Fijian residents outside of Fiji. The Amnesty also grants full waiver of any penalties, any fines, and any taxable charge on all the source funds for these assets as well all taxable incomes derived from these offshore assets as at 31 December 2015 i.e. no retrospective tax assessments on source or taxable income streams. Reserve Bank of Fiji will also grant Exchange Control Amnesty for disclosures made with Fiji Revenue and Customs Authority.

FS: What if taxes have been paid for those foreign assets in that foreign country?

CEO: If taxes have been paid you will need to show documentary proof attached to your Return of Income. Where the incomes have not been taxed, such income streams are only taxable going forward after declaration that is from 2016.

FS: What all is required when declaring offshore assets?

CEO: All offshore asset declarations must be made in full detailing: asset description e.g. bank accounts, bank, account type, account number etc.; Advance/Loan to; Shares in; asset address or locations e.g. property title number, property physical address, company address, country; asset valuation at historical costs, value of taxable income, and ownership details e.g. direct owner, jointly/severally owned, beneficiary, major control, etc.

FS: Dual Citizenships, Expatriates, PR holders working or living here in Fiji, do they have to declare their offshore assets?

CEO: Please note summary of those that are required to declare offshore assets.

	Scenarios	Declare		Comments
		Yes	No	
1	Fiji Citizens	YES		Principal sum not taxable if source already taxed in Fiji, but income stream are taxable.
2	Dual Citizens/PR Holders residing abroad		NO	
3	Dual Citizens / PR Holders residing in Fiji	YES		
4	Expatriates in Fiji for "Employment only"		NO	Provided not required to declare worldwide income under section 17(32).
5	Expatriates who have acquired Fiji citizenship and have changed status to 'Fiji residents'	YES		Taxation from date of change of status.
6	Inherited Offshore Assets	YES		Principal sum is not taxed upon reasonable proof, but income stream are taxable.
7	Foreigners residing in Fiji on "assured income" under residency permit issued by Immigration Department		NO	
8	Foreign Investors residing in Fiji for investment or employment purpose under permit issued by Immigration Department		NO	Provided overseas asset and income is not connected to Fiji Investment or Fiji business.
9	NGO - Sponsored Staff/Consultants residing in Fiji under work permit or residency permit		NO	
10	Employment Income Payments received Offshore	YES		Declare to the extent payment received offshore is not taxed or declared in Fiji.

FS: What other advice that you would like to share about the 2015 Tax Amnesty?

CEO: Taxpayers are urged to take advantage of the Amnesty Program to avoid penalties. Taxpayers wishing to mail any tax amnesty application for penalty waiver or declaration of offshore assets should be addressed to the Tax Amnesty Admin Committee (TAAC), FRCA, Private Mail Bag, Suva. For further information you can call our toll free line on 0800 3304925 or can email your queries to taxamnesty@frca.org.fj.