

Stamp duty changes

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THERE have been changes to stamp duty charges recently, one being the 3 per cent stamp duty required on the transfer of ownership of used vehicles, which came into effect from February 1. In this two-part feature, Business reporter Ropate Valemei speaks with Fiji Revenue and Customs Authority CEO Jitoko Tikolevu about stamp duty charges.

TIMES: There have been a lot of changes in respect of stamp duties and its processes. It seems that new stamp duties have been introduced since FRCA has taken over its operations. Can you please shed some light on this?

TIKOLEVU: The administration of the stamp duty was transferred from the Ministry of Justice to the Fiji Revenue and Customs Authority (FRCA) with effect from April 1, 2011. The stamp duty is charged under the Stamp Duties Act (Cap 205). The Act provides that any written document brought to the Commissioner is assessed to determine if it is liable to stamp duty.

It is payable only on instruments described in the schedule to the Act, and is subject to various conditional and general exemptions. Please note that FRCA has had to administer those duty payable documents listed under the Act, for example, rental agreements, transfer of motor vehicles and appointments. While it may be new to the business community, this was always in the Act which is now being activated.

The person liable for such duty on any instrument is the person who falls within the description of the persons listed in the column of the schedule to the Act titled "persons primarily liable". Such person becomes liable immediately on signing the instrument. The Act also allows for exemption and waiver of the whole or any part of any duty payable on an instrument. A stamped document can be in a court of law in cases of disagreements or where there are breaches in the agreements.

Depending on the type of document or instrument, the stamp duty applicable, must be paid within two months from the date document is signed. Thereafter, penalty of up to 50 per cent on the stamp duty value will be applicable.

Stamp duty on the transfer of motor vehicle

TIMES: Since the stamp duty law on transfer of property (which includes personal property) has always been there, how will the stamp duty be collected for the transfers that took place prior to February 1 this year?

TIKOLEVU: Stamp duty is applicable only on the transfer of ownership of the motor vehicle already registered with LTA. The implementation of stamp duty on motor vehicle came in effect in February 2015 as we had to make public awareness before implementing. Please note that it does not apply on any new vehicle registration with LTA. We have signed a memorandum of understanding with LTA and they will be our collecting agents. Stamp duties for any motor vehicle transfer will be paid only at all LTA offices Fiji wide.

TIMES: This law came into effect in 1921 and FRCA took over in 2011, why has this not been enforced in the past, that is, what was the Government policy prior to this?

TIKOLEVU: FRCA administers the Stamp Duty Act as it is written with its policy intentions. Failing to enforce the law could be viewed as negligence. FRCA acts in good faith and with reasonable care in the application of its powers under the tax law.

TIMES: What is the rationale behind applying stamp duty on transfer of registered vehicles only and not new vehicles?

TIKOLEVU: Some tax jurisdictions apply the tax upon registration of the vehicle. However, our Act only enforces stamp duty on transfers and not on registration. We had proposed in the 2015 budget that stamp duty be implemented on registration of vehicles as well but our proposal was not considered.

TIMES: If a buyer and seller declare a consideration that is lesser than the market value or written down value, how will this be addressed by FRCA?

TIKOLEVU: Yes it would be unfair with those taxpayers who are fully compliant with Stamp Duties Act, however, we will accept the motor vehicle value stated on the transfer form.

Next week: FRCA explains more about stamp duties in relation to the transfer of a vehicle through love and affection, business registrations and exemptions.

* This is a weekly column specifically targeting tax issues. If you have any topics that you want Talk Tax to focus on, please email rvalemei@fijitimes.com.fj or Business editor Geraldine Panapasa on gpanapasa@fijitimes.com.fj.

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