Tax talk - INCOME TAX ACT 2015 REWRITE

Continuation

FS: What are some specifics under the substantial rules?

ACEO: Under the substantial rules general provisions specifies; (i) what is income; (ii) what is deductible; (iii) when an amount is income; and (iv) when an expenditure or loss is deductible. These are the substantive provisions that many taxpayers will need to refer to. More detailed rules are applicable to: (i) particular types of taxpayers – partnerships, trusts and companies; or (ii) particular types of activities – insurance, mining and international transactions. Separating these rules makes the law more user friendly as only those taxpayers for whom these rules are relevant need refer to them.

FS: There have been some issues on the deductions and losses claimable – how has this been clarified to avoid ambiguity for both the business and FRCA?

ACEO: The design of the deduction provision is different under the new income tax law. Under section 21 of the old Income Tax Act, there was a long list of deductible amounts. The list has been replaced with a clear rule that an expenditure or loss is deductible to the extent to which it is incurred in deriving gross income. Provided there is sufficient connection between the incurring of the expenditure or loss and the derivation of gross income, the expenditure or loss will be deductible unless specifically excluded. The law will refer only to specific cases when the general principle is modified such as depreciation/amortisation of capital expenditure; non-deductibility of certain expenditure (such as fines); and the deductibility of private expenditure (such as charitable donations).

FS: What are some major features of the new Income Tax Act?

ACEO: Income Tax Act 2015 provides clarity on partnership and trusts. The new income tax law provides greater clarity in relation to areas not dealt with in detail in the old income tax law, particularly partnerships and trusts. 'Lists' (such as exemptions and rates) has been included in a Regulation to the law and not the body of the law. It places greater reliance on accounting rules in determining chargeable income so as to limit the number of book-to-tax adjustments that have to be made. This reduces compliance and administration costs. The adoption of the most recent International Financial Reporting Standards (IFRS) which is the generally accepted accounting principles facilitates this innovation, where details have been worked out with input from the Fiji Institute of Accountants. New provisions have been included to allow for the write off of intangible expenditure. The old Income Tax Act largely confines depreciation deductions to tangible assets but, in the modern business environment, intangible assets are just as important as tangibles and this is reflected in the new Income Tax Act.

FS: Taxation is complex especially with the long provisos and the archaic words – how has the new Income Tax Act resolved this?

ACEO: The Income Tax Act 2015 is in simple and plain language. It is important that the simplification of the law involves changes in terminology, but not necessarily a change in intended meaning, this will be managed during the transition to the new law through explanatory notes and binding rulings. The Income Tax Act 2015 do not have Latin words. Subsections have a simple sentence structure with one sentence per subsection. Subsection (1) of each section will state the general principle and subsequent subsections will modify, expand, or exclude the general principle in particular cases. The Income Tax Act 2015 will also have Regulations governing Non-profit regulations; Approved Fund Regulations; Employment Regulations; Charitable Donation Regulations; Transfer Pricing Regulations and Provisional Tax Regulations.

FS: I know that there were some consultations done prior to the bill being passed in parliament – please explain.

ACEO: The new Income Tax Act was drafted by International Monetary Fund (IMF) tax expert, Professor Lee Burns of the University of Sydney, through the Pacific Financial Technical Assistance Centre (PFTAC). To ensure its easier adaptation and application to the Fiji environment, through the expert advice from Professor Burns, FRCA has modified the original law in line with feedbacks from internal and external stakeholders. FRCA conducted numerous lock-out sessions with internal stakeholders and held sessions with FIA business and Government Law Review Committee. The wider consultations and public hearings had been extensive. The discussion sessions with the Fiji Institute of Accountants (FIA), Fiji Chamber of Commerce, Fiji Employers Federation, Fiji Hotel Tourism Association to name a few, had been positive and the Authority has incorporated various suggestions to ensure that the new Income Tax Act is adaptable to the Fiji environment. FRCA has also spent a lot of time on consultations with its staff. This was necessary to ensure that all the officers of the Authority have knowledge on the re-written legislation. Following the passing of the Bill in Parliament in November, FRCA has started the New Income Tax Road Show to educate its staff with the new legislation.