

Tax Talk – Real Estate Agents

FT: What is a real estate agent for tax purpose?

ACEO: A real estate agent includes a person who acts or holds himself or herself out to the public as ready to act for reward as an agent in respect of the sale or other disposition of land or business, either with or without any interest in land, or the purchase or other acquisition of land or business, either with or without any interest in land, or in respect of the leasing and letting of land or business, whether or not the person carries on any other business. An estate agent includes a person or organization whose business is to market real estate on behalf of clients.

FT: What rights does licensed real estate agent has?

ACEO: Normally in Fiji a licensed real estate agent (LREA) is given the full right and power to sell the property within a designated time. The LREA would market the property in whatever way it feels right and arranges for viewing (entering the property and showing around) at its own time (convenient to the vendor); Within this time frame the seller does not have any right to sell the property on its own or by any other agent; and the exclusive right to sell is given to this particular agent. A stamp duty of \$50.00 is levied on such appointments and the payer is the vendor.

FT: What are FRCA's plans on the real estate?

ACEO: The Real Estate industry is major player in property and land dealings and we are anticipating a boost in tax collections due to the following reasons: Increase in property values, Increase in property sales, and the new Government Policy on land for non-Fiji Citizens that have acquired land and have not constructed on it.

FT: What about those agents that also collect rents?

ACEO: For Real Estate Agents that collect rent, our inspectors will be conducting checks and verification to see that the Rental Income Reporting System is adhered to. There are so many former Fiji residents who are now residing elsewhere, but still deriving income from properties on rent. These are collected by the Real Estate Agents on behalf of the owners. Income Tax and VAT, where it is correctly due, have to be paid by the Real Estate Agents.

FT: What are the requirements for local investors?

ACEO: All Real Estate Agents are required to be registered with the Real Estate Agents Board. They will have to have a license and will be required to be registered for tax purpose. With FRCA, a person is deemed to be a real estate agent if the person acts, or holds himself or herself out to the public as ready to act, for reward as an agent in respect of the sale or other disposition of land or business (either with or without any interest in land) or the purchase or other acquisition of land or of business (either with or without any

interest in land), or in respect of the leasing and letting of land, whether or not the person carries on any other business. Tax i.e. Capital Gains Tax, Stamp Duty, VAT and Income Tax should be payable where applicable and FRCA will be vigilant in these tax areas.

FT: What are the requirements for international investors?

ACEO: The requirement for international investor for a Real Estate License is the same of that of a local; however, we would like to stress the importance of the Rental Income Reporting System for any person that is involved in the real estate industry. On the same token International Real Estate Agents, who deal in properties situated in Fiji, are also deriving Income from sources in Fiji. Commissions payable to these Agents are subject to 15% Withholding Tax.

FT: What are some of the challenges for this sector?

ACEO: This is a complex industry in terms of monitoring and we often get assistance and information from third parties and through our Whistle Blowing Policy. Some challenges in the real estate industry are:

1. Property sales being conducted out of Fiji;
2. The understatement of valuation of property so as to avoid taxes;
3. Less Stamp duty on the transfer of property due to undervaluation;
4. Less Capital Gains Tax due to undervaluation;
5. Unfiled Rental Income Reporting Returns (stating rent collected);
6. Unregistered persons;
7. Verification of cost for the property for CGT purpose and depreciation;
8. Expenses claimed with no proper invoices;
9. Unreported financial transactions; and
10. Incorrect classifications of expenses – capital from revenue.

FT: Are real estate agents required to by law to declare their business dealings with their landlord?

ACEO: Yes, a real estate agent must declare an annual Rental Income Reporting Return as stipulated under Section 107 of the new Income Tax Act. A real estate agent must file a report for a tax year by the last day of February after the end of the tax year. If two or more persons carry on business jointly as real estate agents, each of those persons is treated as a real estate agent.

FT: What type of information is required from real estate that collect rent from its landlords?

ACEO: A real estate agent shall lodge a return form, which may be in electronic form, by the last day of February in each year, with the following information:—

1. The general information;

- (a) the name and address of each landlord for whom the real estate agent has collected rent;
- (b) the address of the property for which the real estate agent collected the rent on behalf of the landlord;
- (c) the total amount of the rent collected on behalf of each landlord, for each property of that landlord;
- (d) the net amount of rent referred to in paragraph (c) after deduction of commission and other expenses in relation to the management of the property;
- (e) any other income derived; and
- (f) any other information required by FRCA.