

Tax talk - Tax Objection a taxpayers right

FS: What is a tax objection?

ACEO: A tax objection is a formal process for dispute resolution under which the taxpayer has appeal rights. Where a taxpayer does not agree with a tax assessment or decision by FRCA, the taxpayer has the right to appeal the tax decision through a written notice of objection to FRCA within the objection period. A person, who is not happy with a tax decision may lodge an objection regarding a tax assessment, within 60 consecutive days of service of the notice; and other tax decisions, within 30 consecutive days of service of the notice. A person's right to challenge a tax decision is covered in Division III of Part II of Tax Administration Decree (TAD).

FS: How is the objection period determined, is it from the date of tax assessment?

ACEO: No, the objection period starts from, in the case where the assessment notice has been posted, the date of posting, not the date the assessment notice was produced.

The FRCA date of posting of assessment notices is the next working day after the day the assessment is processed. For other tax decisions disallowing or partly allowing a request for review of a tax decision, this is sent by registered post. The FRCA date for registered mail is the next working day after the date of posting.

FS: What happens if you don't lodge on time?

ACEO: Once the period for objecting (including any extension of time to lodge an objection) has ended, the assessment is binding on the taxpayer, unless there is any error or omission made in the tax decision or in any related proceedings. Failure to lodge an objection within the time specified (or extended time) means that the notice of objection becomes invalid and it affects a person's ability to apply to the Tax Tribunal for review of the decision or to appeal the decision to the Tax Court.

FS: Can a person object to an amended assessment?

ACEO: Yes, a taxpayer may object to amended tax assessments but only on any alterations and additions made in the amended assessment.

FS: How does FRCA process a tax objection from a taxpayer?

ACEO: FRCA will issue a letter or email the taxpayer acknowledging receipt of the objection and advising them that a decision will be made in due course. FRCA will verify whether the tax objection is valid before conducting any internal review. To determine the validity of an objection, there are three things that we consider: 1. whether the objection has been lodged within the time frame prescribed by law, or within an extension of time granted to lodge the objection; 2. whether the objection is in the acceptable form; and 3. if the objection is against an amended assessment, whether the grounds of objection relate only to the liability arising from that amendment. If the Objection Notice is valid we will do an internal review.

FS: How will FRCA review the objection?

ACEO: We may call for more documentary evidence and given the timeframe for responding to the objection, we may also request for an extension on the issuance of the Notice of Objection Decision. Depending on FRCA internal review, we may allow the objection in whole or part, and we will amend the tax assessment and advice the taxpayer accordingly. The review of the tax decision is based on merits of the case relating to a taxpayer's complaints and it is conducted by our Objections Review Team (ORT) an independent review unit.

FS: Do you allow for an extension of time for lodging an objection?

ACEO: Yes, a person can apply, in writing to the FRCA for an extension of time to lodge an objection. FRCA may allow this if we are satisfied that the applicant is unable to lodge the objection by the due date for any reasonable cause. Example, we may consider that a person has a reasonable cause for being unable to lodge an objection on time if the person is absent from Fiji, or suffers from illness or some other misadventure (such as loss of records due to an accident or natural cause) or any other genuine reason. Valid grounds for extending the objection period are, for example, where delays within the FRCA or the postal system led to the taxpayer receiving their assessment notice or letter much later than would be usual, had the assessment notice been posted on the day it was produced. The complexity of the matter being objected to is not a valid ground for extending the objection period.

FS: Where to lodge the written request?

ACEO: Written request for extension should be lodged with FRCA on or before the objection period. This means that the person must lodge an objection to the decision within sixty days of service of the notice of the decision (60 days from the date of posting of the notice). Upon receiving an application for extension of time, FRCA is obliged to advise the person of the tax decision in a written notice.

FS: Can a person object if FRCA's denies the request for extension of time?

ACEO: Yes, you can. FRCA's decision on an application for an extension of time is itself a "tax decision" therefore a person may challenge the decision under the objection and appeal procedure in Division III of Part II of TAD. Example, Taxpayer received a written response dated 10th November 2015 advising that his request for extension of time to lodge an objection is disallowed. Taxpayer can object to the CEO's decision within 60 days i.e. by 9th January 2016.

FS: What other avenue does a taxpayer have if the Objection Notice on a tax decision is disallowed by FRCA?

ACEO: Where a notice of objection is disallowed or partly allowed, the person may file an application for review against the tax decision to the Tax Tribunal or Tax Court; or file a request to amend an assessment, which is outside the objection period but within the period for the Commissioner to re-open an assessment.

FS: When is FRCA required to respond to a Notice of Objection?

ACEO: FRCA must respond or issue a tax decision within 90 consecutive days after lodgement of the objection; or, where additional information has been sought, 90 consecutive days after receipt of such additional information.

FS: Will FRCA still recover 'tax arrears' following the issue of the Notice of Objection from the taxpayer?

ACEO: Yes, FRCA will administer all its recovery tools to recover the tax arrears despite being issued a Notice of Objection from the taxpayer. However, an action to recover the amount of tax in dispute may be suspended by the CEO while the objection is being decided. This is provided for in section 21(4) of TAD.

FS: What information needs to be provided in objection notice?

ACEO: An objection must be in the approved form and include the grounds upon which it is made. The Form of Objection of Objection must contain the following the words "I object" or

“I am not liable to taxation” or any similar words with the same purpose. Any wording which indicates that the taxpayer is not satisfied with their assessment or other tax decision will be valid. A form or letter in a language other than the English language, purporting to be an objection, will not be valid. It must have the taxpayer’s name and tax identification number (TIN) – if the taxpayer name or TIN is not provided then the letter will not be an objection. The reasons for the objection must be provided. Any argument put forward by the taxpayer will generally be considered an adequate reason for objection. If no information is provided which could reasonably be interpreted as a “reason” then the letter will not be an objection. The objection must be signed and dated. The signature must be of the taxpayer or, if the taxpayer is not an individual, the authorised person. If the person preparing the objection is a tax agent then both the taxpayer and the tax agent must sign the form.