



# TALK TAX

## Issue 120

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### Corruption and counterfeit goods

#### **Corruption**

Millions of dollars are lost annually through under-valuation of goods or forgoing Customs duties. The fight against corruption has now become an international issue, and the search for ways to tackle this illness has resulted in many initiatives being taken on a global level. In Fiji we have partnered with other customs administration in the region in the exchange of information and data in identifying corrupt practices. The collaboration with other customs administration and law enforcement agencies is imperative to combat corruption being brought to our forefront. The nature of corruption and developments in the field of integrity is constantly changing and we have to be vigilant to maintain and protect Fiji economically.

Customs fraud allows companies to circumvent protections for domestic manufacturers and gain a price advantage against honest competitors who pay the required duties to the government. Individuals engaged in customs fraud are liable under the Customs Act of Fiji which imposes heavy penalties and fines. Where the case is taken to court, a heavy fine and/or prison sentence may be imposed. The Customs Act holds companies liable for false statements made to avoid or decrease payments owed to the FRCA. Specifically, it imposes liability when a person knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the FRCA, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to FRCA.

#### **Common customs fraud in Fiji**

Some common customs fraud are:

1. Miscalculation of goods - Companies importing goods into the Fiji must declare information about the products on entry forms to FRCA. Misrepresentations result in the payment of less tariffs than the company should have paid because customs duties are calculated from the provided information. Import tax rates are determined by the classification of products under the Fiji Tariff Codes. By altering the tariff code, a company can fraudulently lower the amount of customs duties it owes on imported products. Example – some auto traders falsely misclassified auto parts as unfinished in order to avoid paying customs duties to the FRCA.
2. Undervaluation of Imported Goods - The undervaluation customs duties takes place mainly in two ways. In one, the trader under-declares the value so that the assessable value is lower than actual. In a similar vein, a trader can evade customs duty by understatement of quantity or volume of the product of trade. Evasion of customs duty may take place with or without the collaboration of customs officials. By fraudulently undervaluing imports, companies underpay their duty obligations. Taxpayers avoid paying customs duties by understating the value of imported goods and submitting fake invoices.

3. Generation of fictitious invoices – some companies have engaged services of graphic designers in manufacturing fictitious invoices and other paperworks.
4. Money laundering – remitting payment abroad several times using the same invoice.

### Counterfeit Goods

The sale of counterfeit goods and medicines has become an important profit-machine for organized crime syndicates, accounting for about one-third of the value of transnational organized crime flows, according to the United Nations' Office on Drugs and Crime. In total, contraband markets in the Asia Pacific Region are valued at about \$90 billion and are in four major categories, namely, human trafficking and smuggling of migrants; illicit drugs, specifically heroin and methamphetamine; environment and persistent organic pollution crime; and counterfeit goods and fraudulent medicines. The Asia Pacific Region produces a significant share of the world's manufactured goods as well the majority of fake consumer products. About 75 percent of the counterfeit products seized worldwide were made in East Asia, according to the World Customs Organization. Fake goods can pose serious risks to unsuspecting consumers, as they are often of poor quality and do not undergo proper safety and standard testing.

### Illicit imports

In Fiji, we have confiscated illicit imports and apprehended those in the business of smuggling such imports including illicit drugs, undeclared currencies and prohibited goods. These confiscation and apprehensions on smugglings were from internationally registered visiting fishing vessels, yachts, traveler's and parcel post. Through information and data sharing with our counterparts abroad, FRCA is able to apply risk management techniques to risk profile and target high risk fishing vessels and yachts visiting Fiji, parcels and individuals. This year, FRCA officers raided fishing vessels, homes and factories and have confiscated cash, hard liquor and cigarettes which were all were hidden and not declared. The currency was found wrapped in a plastic bag and placed in hidden compartments. The currencies together with the liquor and cigarettes were not declared when arriving into Fiji. FRCA officers carry out their duties diligently in ensuring our borders are protected from smugglers and the infiltration of illicit drugs. The seizure is also a warning to all those individuals wanting to smuggle items into Fiji.

### Drugs caught in Fiji

Tool used as carrier	Drugs contained	Stream
Cans	Methamphetamine – 1.8kg	Air Cargo
Bottle Shampoo	Methamphetamine- 30g	Post Office
Toiletries (Toothpaste)	Methamphetamine - 0.03kg	Post office

### Drugs caught in the region

Tool used as carrier	Drugs contained	Stream
Battery Charger	Cocaine – 4658 grams	Airfreight
Steel Thermos	Methamphetamine – 369 grams	Air Cargo

Car rims - Alloy wheels	Methamphetamine – 3879 grams	Air Cargo
Kids toys	Methamphetamine – 1992 grams	Postal Express Mail Service

### Whistle blower

An important precursor for successful identifying fraudulent cases is the decision by a whistleblower to bring forth evidence of fraud. There is a reward to individuals who come forward with evidence of misconduct where FRCA is able to recover money lost to fraud. FRCA have identified companies that have forged and manufactured fictitious invoices in order to support a lower valuation for calculating import duties. They import goods through another developing country in order to avoid anti-dumping and countervailing duties. As a result of the measures taken by companies engaged in evasion of customs duties, competitors and employees are often in a better position to discover evidence of misconduct than FRCA. If you have evidence of a company committing customs fraud, you as a whistleblower, can report it to FRCA and potentially receive monetary reward up to 10% of the duty and taxes recovered.

### Proper evidence

It is important that proper evidence is provided. This may include copies of invoices, email trails, bank statements, receipt books, cheque butt, cash book, adjustments books, software programs etc.

### Penalties

Any person who is guilty of the general customs offence under section 137 of the Customs Act is liable to a fine up to \$10,000.00. For making false statements, the owner of the goods is required to pay within 90 days after service of the notice, a penalty equal to **twice the excess amount of the duty**, or a penalty of \$1,000.00, whichever is the greater. For fraudulent evasion of duty the penalty under Section 139 of the Customs Act is guilty of an offence and is liable to a fine not exceeding **3 times the value of the goods** or \$20,000.00 whichever is the greater or to **imprisonment for 2 years** or to both such fine and imprisonment and the goods, if any, which are the subject matter of the offence are liable to forfeiture.