

VAT on real estate

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A REAL estate agent is a person who acts as an intermediary between sellers and buyers of real estate or real property and attempts to find sellers who wish to sell and buyers who wish to buy. An estate agent means a person or organisation whose business is to market real estate on behalf of clients. 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 timeframe, 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 is levied on such appointments and the payer is the vendor. Business reporter ROPATE VALEMEI finds out more about tax requirements from the Fiji Revenue and Customs Authority relating to the real estate industry.

TIMES: What are some of the requirements for VAT on real estate?

FRCA: For VAT purpose, any person carrying on a real estate business will be required to have a licence from the Real Estate Licensing Board in Fiji. Any real estate agent whose annual commission is \$100,000 or more will be required to register with FRCA for VAT purpose.

Real estate agents with commission fees less than \$100,000 per annum can still opt to register for VAT on a voluntary basis. They need to weigh their options and if they feel that it is beneficial and that they will be able to maintain proper records, lodge returns and pay VAT on a timely basis, they can opt to register for VAT. The VAT Decree requires that any real estate business being conducted in Fiji and are liable to register for VAT are to do so within 21 days. Where a real estate agent registers for VAT, the real estate agent should charge and collect 15 per cent VAT on the commission earned. They would lodge their VAT returns and pay the VAT collected to FRCA when due.

TIMES: When was VAT introduced?

FRCA: Value added tax or VAT is a tax on spending that is levied on the supply of goods and services in Fiji at the rate of 15 per cent, with effect from January 1, 2011. The VAT registration for real estate agents is not something new, but was always there since the introduction VAT on the July 1, 1992. From 1992 to 2002 the VAT rate was 10 per cent and from 2003-2010 the VAT rate was 12.5 per cent and from 2011 to date the VAT rate is 15 per cent.

TIMES: What are FRCA's plans for the real estate?

FRCA: The real estate industry is major player in property and land dealings and we are anticipating a boost in tax collections because of the following reasons:

- * increased property values;
- * increased property sales; and
- * the new Government policy on land for non-Fiji citizens that have acquired land and have not constructed on it.

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.

TIMES: What are the requirements for local investors?

FRCA: Under the Income Tax Act, 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 such as capital gains tax, stamp duty, VAT and income tax should be payable where applicable and FRCA will be vigilant in these tax areas.

TIMES: What are the requirements for international investors?

FRCA: The requirement for international investor for a real estate licence 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.

TIMES: How many licences do you record in a year on new real estate businesses?

FRCA: We do not issue licences but we register the respective real estate business for income tax and VAT purpose.

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

FRCA: 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 because of undervaluation;

4. Less capital gains tax because of undervaluation; and

5. The rental income reporting system, which requires all real estate agents to lodge a return on the rent collected have not been complied with.

TIMES: What are some of the laws surrounding real estate?

FRCA: The obligation for a real estate agent to declare an annual rental income reporting return is covered under Section 47A of the Income Tax. Section 22 of the VAT Decree refers to the registration of VAT of real estate agents. The schedule in the Stamp Duties Act dictates the stamp duty applicable on a transfer and the "appointment" of a real estate agent.

TIMES: What are the requirements for tax on real estate?

FRCA: For income tax purpose, where a real estate agent collects rent on behalf of the landlord, the real estate agent will have to adhere to a rental income reporting system, which is required under the Income Tax Act. 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:

(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 the Commissioner.

The collection or receipt of rent money by:

(a) a real estate agent or any person employed by that real estate agent; or

(b) a director, officer or employee of a company that is a real estate agent; or

(c) a company in which a real estate agent holds, directly or indirectly, a majority of the shares or control of the voting power, shall be deemed to be carrying on the business of a real estate agent. Where two or more persons carry on business jointly as real estate agents, each of those persons shall be deemed to be a real estate agent.

TIMES: Any other comment regarding this issue?

FRCA: FRCA provides assistance in providing certificate of exemptions to real estate agents who engage their professional services and have cash flow issues. Our advisory is free, while the tax amnesty has been extended to the October 15, we request that real estate agents make use of opportunity.