



Tax Talk –Tax Agents

Tax Agents play a vital role in Fiji's taxation system, creating and maintaining public confidence in the tax administration and to ensure that clients are fully aware of their rights and obligations and are compliant with the tax laws of Fiji. It is the mandatory duty of a tax agent to work in the best interest for the compliance of tax laws for their clients. They are our key partners in the administration of the Fiji Tax system, encouraging and enforcing tax compliance in Fiji. Tax Agents are knowledgeable on taxation laws of Fiji and relevant accounting principles and carry out their work with ethics and professional standard.

Tax agents are independent of Government and hence the Fiji Revenue and Customs Service (Revenue and Customs) often consult and seek their opinion in the interpretation of tax laws and processes. Their independent opinion ensures that the tax laws are applied in a fair, transparent and impartial manner.

Tax Agents' duties and conduct are governed under the Tax Administration Act which is administered by the Tax Agents Board (TAB) in Fiji.

Fraudulent behavior

It has come to the attention of the Revenue and Customs that some Tax Agents collude with taxpayers in falsifying VAT and Income Tax Returns so as to minimize tax or make false refund claims from the State. A number of Tax Agents are currently under investigation for such fraudulent acts such as, using Invoices from a separate company to be claimed in another company's VAT Input Schedule and interchangeably.

For Income Tax purpose, some agents compile two separate set of accounts –one to shareholders with the real profit margin for profit sharing and the other to FRCS with a low or no profit to understate income for tax. Some Tax Agents have engaged tax evasion and avoidance schemes so clients avoid paying taxes e.g. transfer pricing and non-arms-length transactions, income splitting and profit shifting schemes, preparing falsifying records intentionally and improper keeping of records intentionally.

Unprofessional Conduct

The Revenue and Customs is also receiving numerous complaints against few registered Tax Agents whom are providing service to their client in an unprofessional conduct. One of the mandatory roles of registered Agents which some have failed to live up to is seeing that the taxation obligations of their clients are met in a timely matter. Thus includes lodgment of tax returns and providing the correct taxation advise when requested in a timely manner.

Required Competence

With the vast changes in business and commerce, tax agents are expected to provide competent services and must maintain knowledge and skills relevant to the tax agent service that is provided. All reasonable care should be taken when ascertaining a client's state of affairs. Reasonable care must be taken to ensure that taxation laws are applied correctly to the circumstances in relation to advice which is provided to a client. Tax Agents must advise their client of the client's rights and obligations under the taxation laws that are materially related to the tax agent services provided.

Code of Conduct for Tax Agents

The growth in the Taxpayer population, the broader tax base and complexity of the business structure, it became necessary for the Tax Agents professional conduct be bonded to a Code.

At the same time, the expectation of the level of conduct on the part of those occupying positions of trust in the community has risen appreciably.

On 18th October 2018, a new code of conduct for Tax Agent was gazette and signed by the Chairperson of the Tax Agents Board. The Code of Conduct states that:

- (1) A tax agent must act honestly and with integrity.
- (2) A tax agent must comply with the tax laws in the conduct of his or her personal and professional affairs.
- (3) Where a tax agent receives money or other property from or on behalf of a client and holds the money or other property in trust, the tax agent must account to his or her client for the money or other property.
- (4) A tax agent must act lawfully and in the best interests of his or her client.
- (5) A tax agent must have in place adequate arrangements, policies and procedures for the management of conflicts of interest that may arise in relation to the activities that the tax agent undertakes in his or her capacity as a tax agent.
- (6) A tax agent must not disclose any information relating to his or her client's affairs to a third party without his or her client's permission, unless it is necessary to do so for the purposes of producing a document or giving evidence to a court in the course of civil or criminal proceedings or proceedings under the tax laws or any other written law.
- (7) A tax agent must ensure that any service provided by the tax agent, or that is provided on behalf of the tax agent, is provided competently with reasonable care. The responsibility and accountability for any service provided by a tax agent lies with the tax agent.
- (8) A tax agent must maintain knowledge and skills relevant to the services that the tax agent provides.
- (9) A tax agent must take reasonable care in ascertaining his or her client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement that the tax agent is making or a service that the tax agent is providing on behalf of his or her client.
- (10) A tax agent must take reasonable care to ensure that the tax laws are applied correctly to the circumstances in relation to which the tax agent is providing advice to his or her client and any material issues must be explicitly included as notes or written advice to the client.
- (11) A tax agent must not knowingly obstruct or advise his or her client on how to evade the proper administration of the tax laws.

(12) A tax agent must advise his or her client of the client's rights and compliance obligations under the tax laws.

(13) A tax agent may maintain professional indemnity insurance.

(14) A tax agent must respond to requests and directions from the Tax Agents' Board in a timely, responsible and reasonable manner.

Accountability

Despite the many public awareness, amnesty programs, support services and media coverage on voluntary compliance, some taxpayers are still running away from their tax obligations. Government relies on Tax Agents to be honest in providing Tax Services to Fijians. At the same time there will be heavy penalty for assisting and encouraging others to defrauding the Government.