



## **Tax Talk Article: Income Declaration for Resident Individuals**

### **Introduction**

Resident individuals are required to make proper declarations to the Fiji Revenue & Customs Service (FRCS) for all sources of income derived in a tax year. Whether the Income is sourced in Fiji or outside Fiji, it is important for resident individuals to understand what the tax laws require when it comes to declaration of income.

This week, we will discuss on who is a resident individual for tax purpose and what is required to ensure that they are compliant with the tax laws.

### **Importance of Determining Residency Status**

The residency test enables the tax office to correctly determine the basis at which the individual's income is treated and the income tax rates applicable. This means that the tax office cannot make an assessment without having to firstly establish the individual's residency status.

Incorrect determination can result in collection of incorrect taxes. Therefore, determination of an individual's residency status is based on the facts provided in each case.

### **Resident for Tax Purposes**

For tax purposes, it is necessary to firstly determine the residency status of an individual to ensure that the correct tax treatment is applied to an individual's income. There are three general rules and one specific rule to determine residency status for individuals. The general rules are resides test, domicile test and 183 days test. The specific rule is for Government employees of Fiji posted abroad test. These are alternative tests in the sense that even if an individual is not a "resident" according to the ordinary meaning within the common definition, they may still fall within one of the other tests. The following table provides the four alternative tests to determine residency status for individuals.

<b>Residency Tests</b>	<b>Meaning</b>
1. Resides in Fiji	Means the individual physically resides or lives in Fiji
2. Domiciled in Fiji	Means the individual has a permanent place of residence or home in Fiji

3. 183 Days in Fiji	Means the individual has been present in Fiji for a period or periods that amounts to a total of 183 days or more in any twelve month period
4. Government Employee Posted Abroad	Means the individual is a Fiji Government employee that has been posted abroad for official duties

If one of the four alternate tests contained above or in Section 6 (1) of ITA is met, then the individual is considered to be a ‘resident’ for Fiji tax purposes. In other words, if any of the tests is satisfied in a tax year, the individual is treated as a resident for the whole of the year. The individual does not necessarily need to meet the 4 tests in order to become a resident for tax purposes. Neither does the individual have to be a Fiji citizen to qualify as a resident individual for tax purposes.

If an individual is tax resident in Fiji and also in a country with which Fiji has a Double Tax Agreement(DTA), the DTA will supersede the provisions of Fiji Income Tax Act and it will determine what taxing rights each country has.

An individual who has dual citizenship (a citizen of Fiji and citizen of any other country) has to satisfy the residency tests discussed above.

**Temporary Resident**

An individual may also be a ‘temporary resident’ of Fiji for tax purposes. Temporary resident is defined in section 2 of Income Tax Act 2015 which means an individual who is a resident individual solely or mainly for the purposes of engaging in employment in Fiji, under a contract of employment of not more than 3 years, but not including a Fiji citizen or permanent resident of Fiji.

In order to qualify for temporary resident status, the individual must be present in Fiji for at least 183 days and the term must not exceed 3 years.

Temporary Residents are only required to declare sources of income earned in Fiji. In other words, the foreign sources of income for a temporary resident is exempt in Fiji for tax purposes.

**Comparison between Resident & Temporary Residents**

<b>Resident</b>	<b>Temporary Resident</b>
1. Residency Status is determined by Residency Tests	1. Residency Status is determined by contract of employment
2. Required to declare and pay tax on worldwide income i.e. local & foreign	2. Required to declare and pay tax on Fiji sourced income only
3. Resident tax rates are applied on chargeable income	3. Resident tax rates are applied on chargeable income

**The Gross Income of a Resident**

The gross income of a resident individual includes all sources of income from within and outside of Fiji. This is defined in Section 14(3)(a) of the Income Tax Act 2015. All sources of income include employment income, business income, property income, income derived from investment and any other income derived by the resident individual regardless of the place the income was derived from.

Gross Income also includes unexplained and unidentified income and deposits during the year in the bank account of a resident individual. So often we find resident individuals only declaring identifiable and explained income however the unexplained sources remain undeclared.

Resident individuals are urged to understand what gross income includes to ensure that they are declaring the correct income to the tax office.

### **Resident Individuals that earn Foreign Sources of Income**

Foreign sourced income is an income derived by a resident individual from sources outside Fiji e.g. business income, property income (rent) interest income from savings, dividend income etc. Although, these incomes have been earned in a foreign country, it is still part of their Gross annual income.

### **Filing of Tax Returns for Resident Individuals**

Employees who are employed in Fiji and earn employment income only are not required to file a tax return as Employers will deduct PAYE and file Employer Monthly Summaries(EMS) to FRCS. However, employees whose employers have not made PAYE, SRT, ECAL deductions are required to voluntarily file a tax return.

Resident individuals that are employed in foreign countries and do not earn other sources of income are required to voluntarily declare their employment income through a Form S tax return. This also includes those employees whose employers have not made deductions. The Form S return can be accessed on the following link: <https://www.fracs.org.fj/wp-content/uploads/2019/03/IRS200-Salary-Wage-Earners-Return.pdf>.

Resident individuals that are employed in foreign countries and also have other sources of income(including business income) in Fiji or abroad are required to voluntarily declare their employment income and other income in a Form B tax return which can be accessed on the following link: <https://www.fracs.org.fj/wp-content/uploads/2018/08/IRS202-Business-Return.pdf>.

Failure to file a tax return and declare the correct income to the tax office is subject to tax penalties.

### **Resident Individual Tax Rates**

Chargeable Income (\$)	PAYE	Social Responsibility Tax (SRT)	Environment and Climate Adaptation Levy (ECAL)
0 – 30,000	Nil	Nil	Nil
30,001 – 50,000	18% of excess over \$30,000	Nil	Nil
50,001 – 270,000	\$3,600 + 20% of excess over \$50,000	Nil	Nil
270,001 – 300,000	\$47,600 + 20% of excess over \$270,000	13% of excess over \$270,000	10% of excess over \$270,000
300,001 – 350,000	\$53,600 + 20% of excess over \$300,000	\$3,900 + 14% of excess over \$300,000	10% of excess over \$270,000
350,001 – 400,000	\$63,600 + 20% of excess over \$350,000	\$10,900 + 15% of excess over \$350,000	10% of excess over \$270,000
400,001 – 450,000	\$73,600 + 20% of excess over \$400,000	\$18,400 + 16% of excess over \$400,000	10% of excess over \$270,000
450,001 – 500,000	\$83,600 + 20% of excess over \$450,000	\$26,400 + 17% of excess over \$450,000	10% of excess over \$270,000
500,001 – 1,000,000	\$93,600 + 20% of excess over \$500,000	\$34,900 + 18% of excess over \$500,000	10% of excess over \$270,000
1,000,000	\$193,600 + 20% of excess over \$1,000,000	\$124,900 + 19% of excess over \$1,000,000	10% of excess over \$270,000

### **Consequences of Failing to Lodge Tax Returns**

The Tax Administration Act provides the various enforcement actions that can be applied to non-compliant taxpayers. This may consist of Late Lodgment Penalty (LLP), Garnishee Order, Departure Prohibition Order (DPO), Temporary Closure of Business [TCOB] and Prosecution for failure to lodge tax returns.

The tax office will continue with its education and compliance programs and in return we expect resident individuals to abide by the law and voluntarily come forward to register themselves and file their tax returns. The major consequence of non-compliance is that we are depriving our people the much needed developments and social benefits and we are limiting our economic potential as a nation. Non-compliant behavior will be dealt with severe penalties.

### **Updating Information**

All resident individuals are encouraged to update their tax information on the My Info Portal(<https://eservices.fracs.org.fj/myInfor/Home/Index>) available in the FRCS website. Individuals are advised to update their tax information where certain details have changed. These includes changes to the name, residential address, postal address, contacts, bank accounts, relations etc. This is an important process for resident individuals and the tax office as it will greatly assist FRCS to effectively provide reliable and timely tax services.

Individuals that may not be able to log into the MyInfo portal but wish to update their tax information are urged to visit any of our FRCS office Fiji wide for assistance. For more information you can visit our website on [www.fracs.org.fj](http://www.fracs.org.fj) or email us at [info@fracs.org.fj](mailto:info@fracs.org.fj) .