

23	Failure to comply with regulation 18	If gross annual turnover of the supplier's business is \$500,000 or more but less than \$1.5 million - \$25,000, a term of imprisonment not exceeding 24 months or both a fine and imprisonment	\$5,000	\$10,000	\$25,000
23	Failure to comply with regulation 18	If gross annual turnover of the supplier's business is \$1.5 million or more - \$50,000, a term of imprisonment not exceeding 24 months or both a fine and imprisonment	\$10,000	\$20,000	\$50,000

”; and

(c) after item 5, inserting the following new item—

“6. Income Tax (Collection of Provisional Tax) Regulations 2016

Regulation	Fixed Penalty Offence	Maximum Penalty: Fine Imprisonment	Fixed Penalty
5	Failure to make deductions or remit the deductions	\$25,000 10 years	\$2,000

”.

Made this 31st day of July 2019.

A. SAYED-KHAIYUM
Attorney-General and Minister for Economy

[LEGAL NOTICE NO. 61]

INCOME TAX ACT 2015

Income Tax (Retirement Village Incentives) Regulations 2019

IN exercise of the powers conferred on me by section 25A of the Income Tax Act 2015, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Retirement Village Incentives) Regulations 2019.

- (2) These Regulations come into force on 1 August 2019.

Laws to be read together

2. These Regulations shall *inter alia* be read together in conjunction with the—
- (a) Customs Act 1986 and the Customs Tariff Act 1986 in so far as it relates to customs and duties;
 - (b) Excise Act 1986 in so far as it relates to excise; and
 - (c) Value Added Tax Act 1991.

Interpretation

3. In these Regulations unless the context otherwise requires—

“company” means a company registered under the Companies Act 2015;

“exempt goods” means raw materials, plant, machinery and equipment (including spare parts) required for the establishment of a retirement village business;

“Minister” means the Minister responsible for finance;

“project” means the construction of a new retirement village;

“provisional approval” means a provisional approval granted under Part 2;

“retirement village” means a retirement village or aged care facility constructed with facilities, services and amenities for retirement including facilities for health services;

“retirement village investment” means a project with a capital investment of \$250,000 or more, and the project commences on or after 1 August 2019 and the retirement village is completed within 24 months from the date the provisional approval is granted; and

“retirement village investment package” means the incentives under Part 2.

PART 2—RETIREMENT VILLAGE INVESTMENT PACKAGE

Power to grant retirement village investment package

4. The Minister or CEO, as applicable, may grant or refuse to grant a retirement village investment package to a company which has completed a project and has complied with this Part.

Provisional approval

- 5.—(1) The Minister or CEO, as applicable, may—

- (a) reject the application for provisional approval for a retirement village investment package; or
- (b) grant provisional approval to such application, with or without any condition.

- (2) The Minister or CEO, as applicable, must not grant provisional approval under subregulation (1) unless the Minister is satisfied that—

- (a) the application is for a retirement village investment; and

- (b) the company intends to complete and is capable of completing such retirement village investment.

(3) When considering an application for a retirement village investment package under subregulation (1), the Minister or CEO, as applicable, must take into account the following matters—

- (a) the assets and liabilities of the company;
- (b) the nature and extent of the retirement village investment;
- (c) whether adequate amenities would be provided as part of the proposed retirement village investment;
- (d) such other matters as the Minister may consider relevant to the desirability or otherwise of the retirement village investment for Fiji and the capability of the company to complete it.

(4) The decision of the Minister or CEO, as applicable, under this regulation is final.

(5) Notwithstanding subregulation (4), a person whose application (including partial rejected application) has been rejected may make a new application or amend and resubmit the original application.

Application for retirement village investment

6.—(1) A company (“applicant”) may, in writing, apply to the CEO for provisional approval to carry out a retirement village investment, setting out the following—

- (a) the name and registered office of the company;
- (b) the names of all directors and shareholders of the company together, including shareholdings of the directors and shareholders;
- (c) a recent statement of all assets and liabilities of the company;
- (d) the location and description of the project site;
- (e) the number and description of proposed rooms and beds and the health and toilet facilities for the project;
- (f) the detailed description of all proposed amenities;
- (g) a sketch plan showing in sufficient detail the site and layout of the proposed project;
- (h) an estimate of the total cost of the project;
- (i) the description and an estimate of the cost, of each individual stage of construction and details of the proposed timetable for completion of the project;
- (j) details of the proposed method of financing the project;
- (k) evidence of the company’s ability to complete the retirement village investment;

- (l) estimates of the projected income from the new retirement village; and
 - (m) the nature and extent of the retirement village investment.
- (2) The CEO may—
- (a) require the applicant to provide other information he or she may consider necessary in relation to the application; or
 - (b) prescribe particular requirements applicable to any particular area of Fiji on the retirement village investment package.

Effect of provisional approval

7.—(1) When a provisional approval is granted, all exempt goods, imported within the period specified in the definition of “retirement village investment” under regulation 3, by or on behalf of the company and used in the carrying out of the retirement village investment, are exempt from all duties payable in respect of their importation.

(2) Before exempt goods are allowed to be imported by a company, it is a condition of importation that the company must first provide proof that such goods cannot be produced locally to the satisfaction of the Minister, who will decide whether such goods are to be imported.

(3) Nothing in this regulation applies to any tax payable under the Value Added Tax Act 1991.

Completion of retirement village investment

8.—(1) If a company has been granted provisional approval, the company must complete the project within 24 months from the date on which the provisional approval is granted.

(2) Subject to the other provisions of this regulation, where a company has been granted provisional approval and has completed the project, the company may apply to the Minister for final approval.

(3) An application under subregulation (2) must be made in writing and supported by the following—

- (a) fully audited final accounts showing the total cost of the project;
- (b) a completion certificate from the local authority; and
- (c) a final plan showing the site, layout and surrounding areas of the retirement village.

(4) Upon receiving an application under subregulation (2), the Minister may—

- (a) reject the application; or
- (b) give final approval to the application, with or without any conditions.

(5) Subject to regulations 9 and 10, no approval must be granted under this regulation if the Minister is satisfied that the company has failed to complete the project or has failed to comply with any condition upon which provisional approval was granted.

(6) If an application for final approval is rejected, the duties exempted under this Part immediately become due and payable by the company.

(7) The Minister must, in writing, notify the applicant and CEO of the decision to reject or grant the application.

Extension of time for completion

9.—(1) If a company to which provisional approval has been granted is unable to complete its retirement village investment within the period specified in the definition of “retirement village investment” in regulation 3 due to unforeseen circumstances or some other act beyond the control of the company, the company may apply in writing to the Minister to extend the time by which the retirement village investment must be completed.

(2) If the Minister extends the time under subregulation (1), the company continues to enjoy the duty free concession provided for by regulation 7 during the extended period.

Final approval if completed

10. An application for final approval shall not be granted unless—

- (a) the Minister is satisfied that the company has in all respects completed the requirements of the project; and
- (b) the retirement village is fully operational.

Effect of final approval

11. Notwithstanding anything contained in these Regulations, the income of the company will be exempt from tax—

- (a) in the case of a capital investment from \$250,000 to \$1,000,000, for a period of 5 consecutive fiscal years;
- (b) in the case of a capital investment from \$1,000,001 to \$2,000,000, for a period of 7 consecutive fiscal years; and
- (c) in the case of a capital investment of more than \$2,000,000, for a period of 13 consecutive fiscal years.

Revocation of retirement village investment package

12. The Minister may revoke any retirement village investment if the company or owner has—

- (a) breached any condition of provisional or final approval;
- (b) failed to comply with any of the requirements of these Regulations; or
- (c) been convicted of an offence under these Regulations or any other written law relating to taxation, customs or excise.

Specification of particular requirements

13. The Minister may prescribe particular requirements under these Regulations applicable to any particular area of Fiji.

Made this 31st day of July 2019.

A. SAYED-KHAIYUM
Attorney-General and Minister for Economy