[LEGAL NOTICE NO. 61]

INCOME TAX ACT 2015

Income Tax (Exempt Income) (Amendment) Regulations 2020

In exercise of the powers conferred on me by section 142 of the Income Tax Act 2015, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Exempt Income) (Amendment) Regulations 2020.

(2) These Regulations come into force on 1 August 2020, except regulation 2(a) which is deemed to have come into force on 1 April 2020.

Schedule amended

2. The Schedule to the Income Tax (Exempt Income) Regulations 2016 is amended by—

(a) in Part 6 after paragraph (1), inserting the following new paragraph—

“(1A) Notwithstanding paragraph (1), the amount of additional contribution made by an employer to the Fiji National Provident Fund or an approved fund in respect of an employee under the Fiji National Provident Fund Act 2011, provided that the additional contribution does not exceed 10% of the total salary or wages paid to the employee by the employer for a month.”; and

(b) in Part 10 after paragraph (3), inserting the following—

“Corporate bonds

(1) The interest income earned on a corporate bond.”.

Made this 31st day of July 2020.

A. SAYED-KHAHYUM
Attorney-General and Minister for Economy
INCOME TAX ACT 2015

Income Tax (Rates of Tax and Levies) (Amendment) Regulations 2020

In exercise of the powers conferred on me by section 142 of the Income Tax Act 2015, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Rates of Tax and Levies) (Amendment) Regulations 2020.

(2) These Regulations come into force on 1 August 2020.

(3) In these Regulations, the Income Tax (Rates of Tax and Levies) Regulations 2016 is referred to as the “Principal Regulations”.

Regulation 6 inserted

2. The Principal Regulations are amended after regulation 5 by inserting the following new regulation—

“2020 Environment and Climate Adaptation Levy assessment

6.—(1) This regulation applies for the purposes of computing the Environment and Climate Adaptation Levy imposed on a person for the tax year commencing on 1 January 2020.

(2) In this regulation, unless the context otherwise requires—

“Period 1” means the period from 1 January 2020 to 31 July 2020;

“Period 1 tax rate” means the rate or rates of Environment and Climate Adaptation Levy applicable to the chargeable income of a person in Period 1;

“Period 2” means the period from 1 August 2020 to 31 December 2020;

“Period 2 tax rate” means the rate or rates of Environment and Climate Adaptation Levy applicable to the chargeable income of a person in Period 2; and

“person” means an individual, other than a trustee where the income of the trust is taxed in the hands of the trustee.

(3) Where a person derived chargeable income only in Period 1 and not in Period 2, the total Environment and Climate Adaptation Levy for that period is computed by applying the Period 1 tax rate.

(4) Where a person derived chargeable income only in Period 2 and not in Period 1, the total Environment and Climate Adaptation Levy for that period is computed by applying the Period 2 tax rate.
(5) Where a person derived chargeable income in both Period 1 and Period 2, the total Environment and Climate Adaptation Levy for both periods is computed in accordance with the following formula—

\[
\text{Environment and Climate Adaptation Levy} = \frac{7x + 5y}{12}
\]

where—

- \(x\) means the Environment and Climate Adaptation Levy computed by applying the Period 1 tax rate to the chargeable income of the person for the tax year commencing on 1 January 2020;
- \(y\) means the Environment and Climate Adaptation Levy computed by applying the Period 2 tax rate to the chargeable income of the person for the tax year commencing on 1 January 2020; and
- \(\text{year}\) means the calendar year.”.

Schedule amended

3. The Schedule to the Principal Regulations is amended in paragraph (1) by deleting the tables, including their headings, and substituting the following—

“Resident Individuals

<table>
<thead>
<tr>
<th>Chargeable Income $</th>
<th>Income Tax $</th>
<th>Social Responsibility Tax $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Exclusive of ECAL)</td>
<td>(ECAL)</td>
</tr>
<tr>
<td>0 – 30,000</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>30,000 – 50,000</td>
<td>18% of excess over $30,000</td>
<td>Nil</td>
</tr>
<tr>
<td>50,000 – 270,000</td>
<td>$3,600 + 20% of excess over $50,000</td>
<td>13% of excess over $270,000</td>
</tr>
<tr>
<td>270,000 – 300,000</td>
<td>$47,600 + 20% of excess over $270,000</td>
<td>$3,900 + 14% of excess over $300,000</td>
</tr>
<tr>
<td>300,000 – 350,000</td>
<td>$53,600 + 20% of excess over $300,000</td>
<td>$10,900 + 15% of excess over $350,000</td>
</tr>
<tr>
<td>350,000 – 400,000</td>
<td>$63,600 + 20% of excess over $350,000</td>
<td>$18,400 + 16% of excess over $400,000</td>
</tr>
<tr>
<td>400,000 – 450,000</td>
<td>$73,600 + 20% of excess over $400,000</td>
<td>$26,400 + 17% of excess over $450,000</td>
</tr>
<tr>
<td>450,000 – 500,000</td>
<td>$83,600 + 20% of excess over $450,000</td>
<td>$34,900 + 18% of excess over $500,000</td>
</tr>
<tr>
<td>500,000 – 1,000,000</td>
<td>$93,600 + 20% of excess over $500,000</td>
<td>$124,900 + 19% of excess over $1,000,000</td>
</tr>
<tr>
<td>1,000,000 +</td>
<td>$193,600 + 20% of excess over $1,000,000</td>
<td>$124,900 + 19% of excess over $1,000,000</td>
</tr>
</tbody>
</table>
### Non-resident Individuals

<table>
<thead>
<tr>
<th>Chargeable Income $</th>
<th>Income Tax $</th>
<th>Social Responsibility Tax $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Exclusive of ECAL)</td>
<td>(ECAL)</td>
</tr>
<tr>
<td>0 – 30,000</td>
<td>20% of excess over $0</td>
<td>Nil</td>
</tr>
<tr>
<td>30,000 – 50,000</td>
<td>$6,000 + 20% of excess over $30,000</td>
<td>Nil</td>
</tr>
<tr>
<td>50,000 – 270,000</td>
<td>$10,000 + 20% of excess over $50,000</td>
<td>Nil</td>
</tr>
<tr>
<td>270,000 – 300,000</td>
<td>$54,000 + 20% of excess over $270,000</td>
<td>13% of excess over $270,000</td>
</tr>
<tr>
<td>300,000 – 350,000</td>
<td>$60,000 + 20% of excess over $300,000</td>
<td>$3,900 + 14% of excess over $300,000</td>
</tr>
<tr>
<td>350,000 – 400,000</td>
<td>$70,000 + 20% of excess over $350,000</td>
<td>$10,900 + 15% of excess over $350,000</td>
</tr>
<tr>
<td>400,000 – 450,000</td>
<td>$80,000 + 20% of excess over $400,000</td>
<td>$18,400 + 16% of excess over $400,000</td>
</tr>
<tr>
<td>450,000 – 500,000</td>
<td>$90,000 + 20% of excess over $450,000</td>
<td>$26,400 + 17% of excess over $450,000</td>
</tr>
<tr>
<td>500,000 – 1,000,000</td>
<td>$100,000 + 20% of excess over $500,000</td>
<td>$34,900 + 18% of excess over $500,000</td>
</tr>
<tr>
<td>1,000,000 +</td>
<td>$200,000 + 20% of excess over $1,000,000</td>
<td>$124,900 + 19% of excess over $1,000,000</td>
</tr>
</tbody>
</table>

Made this 31st day of July 2020.

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

[LEGAL NOTICE NO. 63]

INCOME TAX ACT 2015

Income Tax (Depreciation Rates) (Amendment) (No. 2) Regulations 2020

In exercise of the powers conferred on me by section 142(1) of the Income Tax Act 2015, I hereby make these Regulations—

**Short title and commencement**

1. —(1) These Regulations may be cited as the Income Tax (Depreciation Rates) (Amendment) (No. 2) Regulations 2020.

   (2) These Regulations come into force on 1 August 2020.
Regulation 4 amended

2. Regulation 4 of the Income Tax (Depreciation Rates) Regulations 2016 is amended by deleting subregulation (1) and substituting the following new subregulation—

“(1) Notwithstanding the provisions of these Regulations, where the cost of a depreciable asset is $10,000 or less, a taxpayer may deduct the full cost of the asset in the tax year it was acquired.”.

Made this 31st day of July 2020.

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

[LEGAL NOTICE NO. 64]

AIRPORT DEPARTURE TAX ACT 1986

Airport Departure Tax (Amendment) Regulations 2020

In exercise of the powers conferred on me by section 8 of the Airport Departure Tax Act 1986, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Airport Departure Tax (Amendment) Regulations 2020.

(2) These Regulations come into force on 1 August 2020.

(3) In these Regulations, the Airport Departure Tax Regulations 1986 is referred to as the “Principal Regulations”.

Regulation 4 amended

2. Regulation 4(1) of the Principal Regulations is amended by—

(a) in paragraph (a), deleting “$175” and substituting “$75”; and

(b) in paragraph (b) after “Fiji”, inserting “Pte”.

Regulation 7 amended

3. The Principal Regulations are amended by deleting regulation 7 and substituting the following new regulation—

“Transitional

7.—(1) Any passenger who pays Airport Departure Tax on or after 1 August 2020 is subject to the new rate of $100.

(2) Any passenger who pays Airport Departure Tax before 1 August 2020 is subject to the previous rate of $200.”.
4. The Schedule to the Principal Regulations is amended by deleting “$200” and substituting “$100”.

Made this 31st day of July 2020.

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

[LEGAL NOTICE NO. 65]

TAX ADMINISTRATION ACT 2009

Tax Administration (Electronic Fiscal Device) (Amendment) (No. 3) Regulations 2020

In exercise of the powers conferred on me by section 118A(2) of the Tax Administration Act 2009, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Tax Administration (Electronic Fiscal Device) (Amendment) (No. 3) Regulations 2020.

(2) These Regulations come into force on 1 August 2020.

Regulation 28 amended

2. Regulation 28(2D) of the Tax Administration (Electronic Fiscal Device) Regulations 2017 is amended by deleting “31 December 2020” and substituting “31 December 2021”.

Made this 31st day of July 2020.

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

[LEGAL NOTICE NO. 66]

INCOME TAX ACT 2015

Income Tax (Hotel Investment Incentives) (Amendment) (No. 2) Regulations 2020

In exercise of the powers conferred on me by section 142 of the Income Tax Act 2015, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Hotel Investment Incentives) (Amendment) (No. 2) Regulations 2020.
(2) These Regulations are deemed to have come into force on 1 April 2020.

Regulation 21 amended

2. Regulation 21(2)(b) of the Income Tax (Hotel Investment Incentives) Regulations 2016 is amended by deleting “$1,000,000” and substituting “$1,000,001”.

Made this 30th day of July 2020.

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

[LEGAL NOTICE NO. 67]

INCOME TAX ACT 2015

Income Tax (Residential Housing Development Package) (Amendment) Regulations 2020

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

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Residential Housing Development Package) (Amendment) Regulations 2020.

(2) These Regulations come into force on 1 August 2020.

Regulation 12 amended

2. Regulation 12 of the Income Tax (Residential Housing Development Package) Regulations 2016 is amended by—

(a) renumbering the provision as regulation 12(1); and

(b) after subregulation (1), inserting the following new subregulation—

“(2) A person who establishes a residential housing under a public private partnership investment is allowed a duty concession on the importation of raw material, machinery and capital equipment for the establishment of the residential housing.”.

Made this 31st day of July 2020.

A. SAYED-KHAICYUM
Attorney-General and Minister for Economy
In exercise of the powers conferred on me by section 25A of the Income Tax Act 2015, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Other Incentives) (Amendment) (No. 2) Regulations 2020.

(2) These Regulations come into force on 1 August 2020, except for regulation 3 in relation only to FNPF employer additional contributions which is deemed to have come into force on 1 April 2020.

(3) In these Regulations, the Income Tax (Other Incentives) Regulations 2018 is referred to as the “Principal Regulations”.

Regulation 5 amended

2. Regulation 5(3) of the Principal Regulations is amended in the definition of “deduction period” by deleting “31 December 2020” and substituting “31 December 2021”.

Regulations 7, 8, 9 and 10 inserted

3. The Principal Regulations are amended after regulation 6 by inserting the following new regulations—

“Corporate bonds

7.—(1) A company is allowed a deduction for 150% of the prescribed costs incurred in a tax year in preparation for listing a corporate bond on the South Pacific Stock Exchange.

(2) A company is allowed a deduction for 150% of the amount of interest paid on a corporate bond.

(3) In this regulation—

“corporate bond” means an instrument issued by a company which provides debt security to raise capital for the company; and

“prescribed costs” includes accounting fees, investment advisory fees, listing fees, legal fees, company administration and management costs, underwriting costs and special reports costs.

FNPF employer additional contributions

8. The total amount allowed as a deduction for a tax year for an employer additional contribution to the Fiji National Provident Fund in respect of an employee is 50% of the employer additional contribution paid in respect of the employee for the tax year, provided that the additional contribution does not exceed 10% of the total salary or wages paid to the employee by the employer for a month.
Loans taken for medical treatment

9.—(1) A person who takes a loan from a credit institution or financial institution for the purposes of medical treatment during a tax year is allowed a deduction of—

(a) the principal amount of the loan and any interest accrued on the principal amount provided the full principal amount is spent for the purposes of the medical treatment; or

(b) only the amount of the principal amount of the loan that is spent for the purposes of the medical treatment and any interest accrued respectively, where the full principal amount has not been spent for the purposes of the medical treatment.

(2) In subregulation (1), expenditure of the principal amount of the loan for the purposes of the medical treatment means the actual cost of medical treatment and any expenditure on accommodation and food, if part of a package with a hospital, and any international travel in relation to the medical treatment.

(3) Subject to subregulation (1), a person applying for a deduction must provide any applicable medical certificate, details of the loan taken from the credit institution or financial institution and receipts to confirm expenditure in relation to the medical treatment.

(4) In this regulation, “credit institution or financial institution” means a credit institution or financial institution licensed under the Banking Act 1995.

Local artists

10.—(1) A hotel or resort carrying on business in Fiji is allowed a deduction for 150% of the amount of any salary or wages paid for the employment of a local artist.

(2) In this regulation, “local artist” means a craftsperson, dancer or musician.”.

Made this 31st day of July 2020.

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

[LEGAL NOTICE NO. 69]

INCOME TAX ACT 2015

Income Tax (Medical Investment Incentives) (Amendment) Regulations 2020

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

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Medical Investment Incentives) (Amendment) Regulations 2020.
(2) These Regulations come into force on 1 August 2020.

(3) In these Regulations, the Income Tax (Medical Investment Incentives) Regulations 2016 is referred to as the “Principal Regulations”.

Regulation 2 amended

2. Regulation 2 of the Principal Regulations is amended by—

(a) deleting the definition of “ancillary medical services investment” and substituting the following—

“ancillary medical services investment” means a project with capital investment (including the cost of support infrastructure and overseas consultant fees but excluding the cost of land) over—

(a) $2,000,000 where the project commences on or after 1 January 2016; and

(b) $500,000 where the project commences on or after 1 August 2020;”;

(b) deleting the definition of “ancillary medical services investment allowance” and substituting the following—

“ancillary medical services investment allowance” means the allowance of an amount of taxable income equal to—

(a) 30% of the total expenditure incurred in the project with capital investment (including the cost of support infrastructure and overseas consultant fees but excluding the cost of land) from $500,000 to $1,000,000; and

(b) 60% of the total expenditure incurred in the project with capital investment (including the cost of support infrastructure and overseas consultant fees but excluding the cost of land) over $1,000,000;”;

(c) in the definition of “existing hospital”, deleting “1 January 2016” and substituting “1 August 2020”;

(d) deleting the definition of “medical investment” and substituting the following—

“medical investment” means a project with capital investment (including the cost of support infrastructure and overseas consultant fees but excluding the cost of land) over—

(a) $7,000,000 where the project commences on or after 1 January 2016; and

(b) $2,500,000 where the project commences on or after 1 August 2020;’’;
(e) deleting the definition of “medical investment allowance” and substituting the following—

“medical investment allowance” means the allowance of an amount of taxable income equal to—

(a) 30% of the total expenditure incurred in the project with capital investment (including the cost of support infrastructure and overseas consultant fees but excluding the cost of land) from $500,000 to $1,000,000; and

(b) 60% of the total expenditure incurred in the project with capital investment (including the cost of support infrastructure and overseas consultant fees but excluding the cost of land) over $1,000,000;”; and

(f) in the definition of “project”, deleting “building” wherever it appears and substituting “establishment”.

Regulation 7 amended

3. Regulation 7(1) of the Principal Regulations is amended by deleting “on or after 1 January 2016”.

Regulation 9 amended

4. Regulation 9(1) of the Principal Regulations is amended by—

(a) in paragraph (a), deleting “an amount of taxable income equal to 60%” and substituting “for a capital investment from $500,000 to $1,000,000, an amount of taxable income equal to 30%”; and

(b) deleting paragraph (b) and substituting the following new paragraph—

“(b) for a capital investment more than $1,000,000, an amount of taxable income equal to 60% of the total capital expenditure incurred in the project including the provision of amenities approved by the Minister, but not including the cost of any land acquired for the project or refurbishment and renovation, is not chargeable to tax; and”; and

(c) after paragraph (b), inserting the following new paragraph—

“(c) so much of the amount not charged to tax under paragraphs (a) and (b) and which cannot be set off against the taxable income of the hospital owner for the first year of income after the commencement of operation or after the completion of the extension must be carried forward and be set off against the taxable income of the next successive fiscal years of income of the hospital owner until the amount is wholly set off.”.
Regulation 19 amended

5. The Principal Regulations are amended by deleting regulation 19 and substituting the following new regulation—

“Exemption from tax

19. If final approval is granted under this Part to a company, the income of the company is exempt from tax on profits derived from the operation of the private hospital if the capital investment in the private hospital is—

(a) from $2,500,000 to $5,000,000, in the case of a company that applies on or after 1 August 2020, for a period of 7 consecutive fiscal years;

(b) from $5,000,001 to $10,000,000, in the case of a company that applies on or after 1 August 2020, for a period of 13 consecutive fiscal years; and

(c) more than $10,000,000, in the case of a company that applies on or after 1 August 2020, for a period of 20 consecutive fiscal years.”.

Regulation 30 amended

6. Regulation 30(1) of the Principal Regulations is amended by deleting “on or after 1 January 2016”.

Regulation 32 amended

7. Regulation 32(1) of the Principal Regulations is amended by—

(a) in paragraph (a), deleting “an amount of taxable income equal to 60%” and substituting “for a capital investment from $500,000 to $1,000,000, an amount of taxable income equal to 30%”;

(b) deleting paragraph (b) and substituting the following new paragraph—

“(b) for a capital investment more than $1,000,000, an amount of taxable income equal to 60% of the total capital expenditure incurred in the project including the provision of amenities approved by the Minister, but not including the cost of any land acquired for the project or refurbishment and renovation, is not chargeable to tax;”; and

(c) after paragraph (b), inserting the following new paragraph—

“(c) so much of the amount not charged to tax under paragraphs (a) and (b) and which cannot be set off against the taxable income of the hospital owner for the first year of income after the commencement of operation or after the completion of the extension must be carried forward and be set off against the taxable income of the next successive fiscal years of income of the hospital owner until the amount is wholly set off.”.
Regulation 42 amended

8. The Principal Regulations are amended by deleting regulation 42 and substituting
the following new regulation—

“Exemption from tax

42. If final approval is granted under this Part to a company, the income of the
company is exempt from tax on profits derived from the operation of the ancillary
medical centre if the capital investment in the ancillary medical centre is—

(a) from $500,000 to $3,000,000, in the case of a company that applies on
or after 1 August 2020, for a period of 7 consecutive fiscal years;

(b) from $3,000,001 to $10,000,000, in the case of a company that applies
on or after 1 August 2020, for a period of 13 consecutive fiscal years;

and

(c) more than $10,000,000, in the case of a company that applies on or
after 1 August 2020, for a period of 20 consecutive fiscal years.”.

Made this 31st day of July 2020.

A. SAYED-KHAHYUM
Attorney-General and Minister for Economy
3. Schedule 1 to the Principal Regulations is amended by—
   (a) in item 2, deleting “statutory” wherever it appears; and
   (b) in item 4, deleting “Dangerous” and substituting “Illicit”.

4. Schedule 2 to the Principal Regulations is amended by—
   (a) in item 14(b), deleting “more than 8 years of their year of manufacture” and substituting “not Euro 4 compliant”;
   (b) deleting item 17; and
   (c) after item 18, inserting the following new items—

<table>
<thead>
<tr>
<th>Item No</th>
<th>Description of Goods</th>
<th>Conditions, Restrictions or Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>Vehicle with gross vehicle mass exceeding 32 tonnes.</td>
<td>The importer must produce to the Comptroller the permit to operate the vehicle, issued by the Land Transport Authority pursuant to the Land Transport (Vehicles Registration and Construction) Regulations 2000, before the vehicle is imported.</td>
</tr>
<tr>
<td>20</td>
<td>Used tyres 4012.11.00; 4012.12.00; 4012.13.00; 4012.19.00; 4012.20.00; 4012.90.00; 8708.70.10</td>
<td>The importer must obtain the approval of the Comptroller for the importation of tyre casing. The importer must be an existing approved manufacturer of retreaded tyres.</td>
</tr>
</tbody>
</table>

5. Schedule 3 to the Principal Regulations is amended by—
   (a) in item 5—
      (i) in paragraph (a)—
         (A) deleting “and are not more than 5 years from the year of manufacture for diesel, unleaded and hybrid vehicles” and substituting “for diesel and unleaded vehicles”; and
         (B) deleting the following tariff items—
             “8703.40.20; 8703.40.40; 8703.40.60; 8703.40.80; 8703.40.99; 8703.50.20; 8703.50.40; 8703.50.60; 8703.50.80; 8703.50.99;”;
      (ii) after paragraph (a), inserting the following new paragraph—
         “(aa) Used or reconditioned motor vehicles principally designed for the transport of persons, including station wagons and racing cars; dual purpose motor vehicles; vehicle chassis and vehicle chassis fitted with engines unless they are Euro 4 compliant and not less than 5 years from the year of manufacture for hybrid vehicles. The vehicles subject
to a licence are classified under the following tariff items in Part 1 of Schedule 2 to the Customs Tariff Act 1986—
8703.40.20; 8703.40.40; 8703.40.60; 8703.40.80;
8703.40.99; 8703.50.20; 8703.50.40; 8703.50.60;
8703.50.80; 8703.50.99”; and

(iii) in paragraph (b) after “Customs Tariff Act 1986—”, inserting the following new tariff item—
“8701.10.00;”; and

(b) deleting item 7.

Schedule 5 amended

6. Schedule 5 to the Principal Regulations is amended in item 11 by deleting “Pharmacy and Poisons Act 1937” and substituting “Medicinal Products Act 2011”.

Schedule 6 amended

7. Schedule 6 to the Principal Regulations is amended in item 2 by deleting “Dangerous” and substituting “Illicit”.

Made this 31st day of July 2020.

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

[LEGAL NOTICE NO. 71]

INCOME TAX ACT 2015

Income Tax (Subdivision of Land Incentives) Regulations 2020

In exercise of the powers conferred on me by section 142 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 (Subdivision of Land Incentives) Regulations 2020.

(2) These Regulations come into force on 1 August 2020.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“applicant” means a person who applies for the investment allowance under Part 2;

“application” means an application for the investment allowance under Part 2;
“capital goods” means raw materials, capital equipment, plant, machinery and any other goods employed in the production of other goods but does not include furniture or motor vehicles;

“final approval” means the approval granted by the Minister under regulation 8;

“Minister” means the Minister responsible for finance;

“project” means a project for the subdivision of land for residential or commercial purposes and includes all the work undertaken to acquire an approval for the subdivision of land under the Subdivision of Land Act 1937;

“provisional approval” means the approval granted by the CEO under regulation 5;

“subdivision of land investment” means a project with the capital investment specified in regulation 3(1) where the project commences within 24 months from the date the provisional approval is granted; and

“subdivision of land investment package” means the investment allowance and tax exemption on developer profits under Part 2.

PART 2—SUBDIVISION OF LAND INCENTIVE

Investment allowance

3.—(1) Subject to subregulation (2), a person is entitled to the following allowance—

(a) for a capital investment of less than $1,000,000, a 20% tax deduction;

(b) for a capital investment from $1,000,001 to $3,000,000, a 30% tax deduction;

(c) for a capital investment from $3,000,001 to $7,000,000, a 40% tax deduction; and

(d) for a capital investment above $7,000,000, a 60% tax deduction.

(2) Notwithstanding subregulation (1), a person who has claimed an investment allowance under this regulation may claim depreciation under the Act and, for such purpose, the investment allowance must not be taken into account.

(3) In the case of Fijian residents or non-residents, the investment allowance may only be given if there is no shift of tax revenue to other countries.

(4) Subject to this Part, if—

(a) a project has been completed; and

(b) an investment allowance under this regulation exceeds the taxable income of the applicant; or

(c) the taxable income from the applicant for the period ended on the next year of income after the project has been completed,

the balance must be carried forward and set off against the taxable income of the applicant for the next successive years of income.
Power to approve applications

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

(a) reject the application;

(b) approve the application, with or without any conditions; or

(c) approve a part of the application, with or without any condition, and reject other parts of such application.

(2) The Minister or CEO, as applicable, must take into account the following matters when determining an application under subregulation (1)—

(a) the assets and liabilities of the applicant;

(b) the nature and extent of the project; and

(c) such other matters the Minister may consider relevant to the desirability of the project and the capability of the applicant to complete it.

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

(4) Notwithstanding subregulation (3), 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 provisional approval

5. A person wishing to carry out a project may apply in writing before 31 July 2022 to the CEO for approval of the proposed project, and such application must set out the following matters—

(a) the name and details of the person;

(b) a current statement of all assets and liabilities of the person;

(c) the location and description of the land;

(d) a sketch plan showing the proposed project;

(e) the estimated cost of the project;

(f) if the project is to be carried out in stages, a description and the estimated cost, of each stage and details of the proposed timetable;

(g) details of the proposed method of financing the project; and

(h) any other information the CEO may require.

Effect of provisional approval

6.—(1) When a provisional approval is granted, all capital goods imported by or on behalf of the applicant and used in the carrying out of the subdivision of land investment, is exempt from all duties payable in respect of their importation.

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

7.—(1) Any applicant who has been granted provisional approval must commence the project within 24 months from the date of provisional approval.

(2) Subject to the other provisions of this regulation, where an applicant has been granted provisional approval and has completed the project, the applicant 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 Director of Town and Country Planning; and

(c) a final plan showing the site, layout and surrounding areas of the project.

(4) Subject to regulation 8, the Minister must refuse to grant final approval if the applicant has failed to complete the project or has failed to comply with any condition upon which provisional approval was granted.

8.—(1) An application for final approval must not be granted unless—

(a) the Minister is satisfied that the applicant has in all respects completed the requirements of the project; and

(b) the project is fully completed.

(2) The Minister must notify the CEO in writing of the decision made under subregulation (1).

9. If the Minister grants final approval—

(a) the applicant is entitled to the investment allowance under regulation 3; and

(b) the income of the applicant is to be exempt from tax on developer profits derived from the subdivision of land investment.

10. If an applicant to whom provisional approval has been granted is unable to commence the project within the period specified in regulation 7(1) due to unforeseen circumstances or some other act beyond the control of the applicant, the applicant may apply in writing to the Minister to extend the time by which the project must be completed.

11. If the Minister or CEO has granted a provisional or final approval in relation to a project, the applicant is only entitled once, in relation to the project, to the subdivision of land investment package.
Revocation of subdivision of land investment package

12. The Minister or CEO, as applicable, may revoke the subdivision of land investment package if the applicant 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 any 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 2020.

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