



STANDARD INTERPRETATION GUIDELINE 2018-30

CUSTOMS CONCESSION CODE 272 Importation of Smart Phones

This Standard Interpretation Guideline ('SIG') sets out Fiji Revenue and Customs Service's ("FRCS") policy and operational practice in relation to the Customs Concessions granted to Companies, Entities, Organizations and Individuals under Concession Code 272, Part III, Schedule 2 of Customs Tariff Act 1986.

It is issued with the authority of the Chief Executive Officer ("CEO"), who is also the Comptroller of Customs and Excise (the Comptroller) of FRCS.

All legislative references in this SIG are to the *Customs Tariff Act ("CTA") 1986* (unless otherwise stated).

This SIG is in effect from 28th August, 2018 and may need to be reviewed in the event of any relevant legislative amendments.

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Purpose

- 1 The purpose of this SIG is to provide clarity and certainty to the application of the provisions under Concession Code 272. The pre-requisites to qualify, test rules and the entitlements under the code are discussed.
- 2 This SIG will also serve as a checklist to the applicants to self-assess their eligibility.
- 3 Furthermore, it will ensure that there is a uniformed approach by FRCS officers to the processing of applications under this provision

Introduction

- 4 Concession Code 272, under Part 3, Schedule 2 of the Customs Tariff Act (CTA)1986, provides import duty concessions to Companies, Entities, Organizations and Individuals on the importation of smart phones into the country.
- 5 While the legislative provisions are set out in the Customs Tariff Act, Companies, Entities, Organizations and Individuals need to be very clear in terms of the administration and the application of the law.
- 6 This SIG therefore, sets out the Comptroller’s official position on the application of Customs Concession Code 272

Legislative Analysis

- 7 Concession Code 272 provides the legislative basis for making concession available to importers of smart phones.
- 8 The concession is applicable on the importation of smart phones either for commercial or personal use.
- 9 Below is an extract of the concession code table relating to code 272:

Code No	Owner	Goods Eligible	Fiscal	Import Excise	VAT	Conditions	Authority
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
272	Companies, entities, organizations or individuals	Smart Phones (high end mobile phones): Phones that have email capability, have inbuilt features that is found on a personal digital assistant or a Digital Assistant(PDA), calendar and internet browser, etc. e.g. Blackberry, iPhone. Not applicable to phones which only have a WAP (Wireless Application Protocol) Browser	Free	Free	9%	(a) That the concessionary rate has been granted which is to be reflected of the price of the goods when sold. (b) That the disposal or use of the goods for purposes other than that for which the concession is granted be subject to the condition laid down in Section 17 of the Customs Tariff Act	The person approved by the Comptroller

- 10 The concession is claimed at the time of importation or at the time of clearance from any Customs Controlled Stations by the importer.
- 11 The concession is for Smart Phones (high end mobile phones): phones that have email capability, have inbuilt features that is found on a personal digital assistant or a Digital Assistant(PDA), calendar and internet browser, etc. e.g. Blackberry, iPhone. Not applicable to phones which only have a Wireless Application Protocol (WAP) Browser
- 12 Any conditions that maybe specified by the CEO are fulfilled;

- 13 When any condition affecting the goods is not fulfilled after the goods leave Customs control, the Comptroller may disallow the concession and collect the rate of duty applicable under Part 1, Customs Tariff Act. Further action may also be taken such as imposition of penalties.

Governing Conditions

- 14 Application of the concessional rates of import duty under this concession code is governed by the following conditions:
- (a) That the concession is claimed at the time of importation or at the time of clearance from bonded warehouses by the person or body;
 - (b) That, where applicable, the goods are of a kind answering to a name or description specified in Column (3);
 - (c) That any condition in Column (7) specifying the use of the goods, shall be taken, to limit such goods to the type, kind or quantity suitable for such uses;
 - (d) That all conditions specified in Column (7) and any additional conditions that may be specified by the Comptroller are fulfilled, provided that:
 - (i) when any condition affecting the goods is not fulfilled after the goods leave Customs control, the Comptroller may disallow the concession and collect the rate of duty applicable under Part 1, Schedule 2, Customs Tariff Act; and
 - (ii) Such collection shall be without prejudice to action under any other law for the time being in force.

Qualifying Criteria and Conditions

- 15 For the purpose of this concession, companies, entities, organizations or individuals may import smart phones either for personal or commercial use.
- 16 A smartphone is a cellular telephone with an integrated computer and other features not originally associated with telephones, such as an operating system, web browsing and the ability to run software applications.
- 17 This concession is not extended to phones, which has a Wireless Application Protocol (WAP). Examples include telephones, radio transceivers and mobile phones such as Nokia, Motorola and Ericsson.
- 18 If the cell phone does not have the features listed in paragraph 10 the concession shall not be allowed and duty will be applicable under Part 1, Schedule 2, Customs Tariff Act 1986
- 19 A permit is required from the Telecommunications Authority of Fiji prior to the clearance of the smartphones.
- 20 If the import permit is not produced at the point of clearance, the smart phones will be detained until such time that the relevant import permit is obtained and provided to the Customs Officer.
- 21 The disposal or use of approved goods in column (3) for the purposes other than that for which the concession is granted be subject to the conditions as provided for in Section 17 of the Customs Tariff Act 1986. Under Section 17, goods are liable for duty at any time within five years from the date of importation if the goods under concession are disposed of or used for any purpose other than that for which the concession is granted.
- 22 For any other clarifications you may contact the FRCS TIPU team on tipu.techs@frcs.org.fj
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