



STANDARD INTERPRETATION GUIDELINE 2021- 40

GAMBLING TURNOVER TAX ACT 1991

This Standard Interpretation Guideline (“SIG”) sets out Fiji Revenue and Customs Service’s (“FRCS”) policy and operational practice in relation to Gambling Turnover Tax Act 1991.

It is issued with the authority of the Chief Executive Officer (CEO) of FRCS.

Legislative references in this SIG are the Gambling Turnover Tax Act, 1991 (GTT) unless otherwise stated.

This SIG is in effect from 7th January 2022 and may need to be reviewed in the event of any relevant legislative amendments.

CONTENTS

Purpose	2
Introduction	2
Legislative Analysis	3
Gambling Services	3
Imposition of GTT	3
Consideration for GTT imposition	3
Accountable persons to register with CEO	3
GTT Filing Obligations and Payment	4
Summary of Turnover	7
Refunds	7
Appendix – Legislation	8

PURPOSE

1. The purpose of this SIG is to discuss CEO's interpretation and application of legislative provisions of Gambling Turnover Tax Act, 1991.
2. The CEO finds it necessary to provide awareness and clarity on this topic to ensure that taxpayers' engaging in provision of gambling services are aware of their tax obligations.

INTRODUCTION

3. Gambling Turnover Tax (GTT) was introduced in Fiji effective 1st July 1992. GTT is a tax on *gambling services* licensed under Gaming Act 2009.
4. Gambling services means a service in relation to a gaming activity that is licensed under the Gaming Act 2009¹.
5. The Gaming Act 2009 issues licence for gaming activities under two categories – Class 1 and Class 2.²
6. In the National Budget 2021-2022, effective 1st August 2021, the rate of GTT on the value of consideration paid or payable for gambling services has been fixed at a standard rate of 15%.
7. The examples used throughout this SIG are merely illustrative. They do not cover the infinite number of factual scenarios that may arise. The relevant legislative provisions must be considered and applied to each case on its particular facts.

That is, conclusions should not be drawn by determining whether the facts of a particular case may be analogous with particular examples, but rather on the basis of applying the correct tests established by the law.

8. The full text of the legislative provisions is contained in the Appendix.

¹ Section 2 of GTT

² GTT is levied on gambling services which includes two kinds of gaming activities – Class 1 gaming and Class 2 gaming, licensed under the Gaming Act 2009.

1. **Class 1 gaming** is a gaming activity which satisfies the following conditions, namely—
 - a) the gaming activity is not prohibited by Gaming Act or exempt from a requirement to be licensed under Gaming Act;
 - b) the gaming activity is conducted solely for a charitable purpose;
 - c) the gaming activity is conducted at or in respect of a specified event or function;
 - d) the gaming satisfies any rules applicable to a particular form of gaming as prescribed in regulations.²
2. **Class 2 gaming** is a gaming activity which satisfies the following conditions, namely—
 - a) the gaming activity is not prohibited by Gaming Act or exempt from a requirement to be licensed under Gaming Act;
 - b) the gaming is not conducted for a charitable purpose;
 - c) the gaming satisfies any rules applicable to a particular form of gaming as may be prescribed in regulations;
 - d) the gaming does not utilise or involve, directly or indirectly, a gaming machine or other means of gaming which is prohibited under this Act².

LEGISLATIVE ANALYSIS

Imposition of GTT

9. GTT is levied on the value of consideration paid or payable by a person to whom gambling services are provided.³
10. Prior to 1st August 2021, GTT was imposed on the value of consideration, as below:
- a) For each complete \$1 of turnover, Gambling Turnover Tax payable = \$0.15;
 - b) For each sum less than \$1 and any fractional balance in excess of \$1 or a multiple thereof;

Amount of sum or fractional balance	Gambling Turnover Tax payable
\$0.05 - \$0.50	\$0.07
\$0.51 - \$0.99	\$0.15

11. In the National Budget 2021-2022, GTT rate was amended effective 1st August 2021. GTT rate is 15% on the value of consideration which is paid or payable by the person to whom gambling service is provided.⁴

Consideration

12. Consideration for GTT purposes is deemed to be the amount payable in respect of the gambling services:
- a. by the acceptance of the bet; or
 - b. the provision of ticket.⁵
13. The consideration in relation to the *acceptance of a bet* is the stake money paid in relation to the bet.
14. Generally, stake money refers to the monetary risk incurred by a person in a gamble such as bet, stakes, wager etc. with the intention to make a monetary gain.
15. The consideration in relation to the *provision of a ticket* is the price of ticket, unless otherwise determined by the CEO.
16. GTT is borne by the person to whom gambling services are provided i.e. the person who pays the amount of consideration.

Accountable persons to register with CEO⁶

17. An accountable person is the representative of a person carrying on any trade, business, profession or vocation.
18. The accountable person is responsible for the collection of GTT under the GTT Act.

³ Section 3 and Schedule 2 of GTT

⁴ Schedule 2 – Rate of Gambling Turnover Tax of GTT

⁵ Section 2(2) of GTT

⁶ Section 6 of GTT

19. An accountable person must within 30 days of the commencement of trade, business, profession or vocation, register with CEO, FRCS with the following details:
- a. name and address;
 - b. in case of a partnership, the names and addresses of partners and associates, and indicating the precedent partner;
 - c. in case of a company, the names and addresses of the directors of the company;
 - d. the trade or business name where the trade, business, profession or vocation is carried on under a name or style other than his or her own name; and
 - e. the place and address, if any, where he or she carries on or intends to carry on his or her trade, business, profession or vocation; and
 - f. in the case of a company carrying of the trade, business, profession, vocation, the location and address of the registered office.
20. In case of a body of persons, the manager or other principal officer, may register trade, business, profession or vocation with FRCS.
- For instance, in case of a company (body of persons), an accountable person who should register with FRCS is the manager or any other principle officer of the company, by whatever named called.
21. In the case of a partnership, the precedent partner may register trade, business, profession or vocation with the FRCS.
22. A “precedent partner” in relation to a partnership, means a resident partner who is first named in the agreement of partnership.
23. If there is no agreement, the “precedent partner” is the resident partner who is named singly or with precedence over the other partners in the usual name of the partnership.
24. The precedent active partner if the partner named with precedence is not an active partner.
25. In case there is no resident partner in Fiji, the “precedent partner” shall be the attorney, agent, manager or factor of the partnership resident in Fiji.
26. An accountable person who fails to apply for registration as per the requirements of GTT Act, is guilty of an offence punishable by a fine not exceeding \$25,000.

GTT Filing Obligations and Payment

27. An accountable person licensed under the Gaming Act to provide gambling services is required to submit a GTT return and remit the payment to FRCS.
28. In case of gambling services provided during the week, the GTT return together with the GTT payable must be submitted to FRCS within 7 days after the last day of each month⁷.
29. The return must provide all required details of transactions of gambling services undertaken during the week.

⁷ Section 5(1) of GTT Act 2009

30. In certain situations, the CEO may by notification require the accountable person to pay GTT and file the return within a shorter period than that specified in para 30 above. In such cases, GTT should be paid within 14 days from the date of provision of gambling services⁸.
31. For the sake of accuracy and consistency in administration of GTT filing and payments with FRCS, period for filing of GTT return and GTT payment to FRCS has been standardised in the TPOS (Taxpayer Portal for Online Services).
32. The due date for GTT filing and payments on TPOS depends on the Class of gaming license issued to the trade, business, profession or vocation carrying out gambling services.

Class 1 Gaming License – Charitable Purpose

33. Payment and Return filing for gaming activities related to Class 1 Gaming License, which relates to gaming activity for **charitable purposes** (e.g. **lottery tickets**) that are transaction based is due in 14 consecutive days from the draw date of the lottery.
34. It needs to be noted that all gaming activities carried out for charitable purposes does not require gaming license under class 1 provided they are specifically exempt from license requirements under the Gaming Act 2009.
35. The accountable person is required to provide registration information to FRCS in respect of each draw.

Example 1: Lottery Tickets – Charitable Purpose – Class 1 Gaming License

ABC Books Library Association wants to raise funds for its new library classroom. It sells 1,000 lottery tickets at the price of FJD 1 each. The draw was held on 10th August 2021. They want to know the amount of GTT payable.

CEO's position:

The amount of GTT payable is computed as below:

No. of tickets sold	Price of each ticket	Total consideration	GTT prescribed rate	GTT payable
1,000	\$1	\$1,000	15%	\$150

ABC Books Library Association will have to file the return and make the payment within fourteen consecutive days from 10th August 2021 i.e. 24th August 2021.

⁸ Section 5(2) of GTT Act 2009

Class 2 Gaming License

36. Payment and Return filing for gaming activities related to Class 2 Gaming License that relates to **non-charitable purposes** that are of recurring nature, is due by the last day of the following month in which such gambling services are provided.
37. Examples of Class 2 Gaming license relating to non-charitable purposes are Non-Charitable Lotteries, Overseas Lotteries, Remote Interactive Gaming, Betting Shop Providers.
38. If no gambling services are conducted during the month, the accountable person is required to lodge NIL returns.

Example 2: Betting Service Providers – Non-Charitable Purpose – Class 2 Gaming License

D Ltd. is a Betting Club providing gambling service for the non-charitable purposes (Chance to win) through bets. The bets are of different value considerations and includes horse racing and other gaming activities. D Ltd. wants to know applicable GTT on a series of transactions submitted for FRCS's advice.

CEO's position: GTT computation will be as below:

Draw Date	Type of Bet	Bet Value	Number of Bets Sold	Consideration (Number of bets sold x Bet Value)	GTT Prescribed Rate	GTT Payable
01-08-2021	Horse Race and others	\$ 5.00	248.00	\$1240	15%	FJD 186.00
02-08-2021	Horse Race and others	\$10.00	140.00	\$1400	15%	FJD 210.00
09-08-2021	Horse Race and others	\$20.00	95.00	\$1900	15%	FJD 285.00
16-08-2021	Horse Race and others	\$50.00	54.00	\$2700	15%	FJD 405.00
16-08-2021	Others	\$1.00	450.00	\$450	15%	FJD 67.50
23-08-2021	Others	\$0.50	684.00	\$342	15%	FJD 51.30
				TOTAL \$8032		TOTAL \$1,204.80

D Ltd. will be required to file the return and make the payment by the last day of the following month i.e. 30th September 2021.

Summary of turnover⁹

39. On or before the last day of February of the following a year in which tax was collected by an accountable person, a summary in duplicate containing the following particulars shall be delivered personally or send by post or in an approved form as required by FRCS:
- a) the name and address of the accountable person;
 - b) the gross amount of all considerations paid or payable to him or her in respect of the provision of gambling services during the year immediately preceding that during which the summary is, under this section, required to be delivered or sent; and
 - c) the total amount of tax collected by him or her during the last mentioned year in accordance with section 4.
40. Upon cessation of business by an accountable person, the accountable person will be required to deliver or send the summary containing the information listed in para 41, within such time as specified by the CEO.

Refunds¹⁰

41. The CEO may, in certain circumstances, refund the amount of GTT to the accountable person if the accountable person satisfies the CEO that the GTT exceeds the amount paid, such excess shall be refunded to that accountable person.
42. However, no refund shall be made after the expiry of the period of 3 years immediately after the end of the month in which the gambling services were provided by that accountable person.
43. Despite para 42, if a written application for the refund is made before the expiration of the period of 3 years as above, the CEO may allow refund of the excess amount.

Example 3 – Refunds

C Ltd. is engaged in horse betting services on a monthly basis. C Ltd. has been filing its returns since its registration date which is 1st January 2010. In March 2020, C Ltd. makes an application to FRCS CEO requesting for refund of excess GTT paid during the year April 2016. C Ltd. wants to know CEO's response.

CEO's position: Since C Ltd. has made the written application for refund after expiry of the 3 years, C Ltd. will not qualify for the refund amount.

44. For information or clarifications in regard to this SIG, please email us at tipu@frcs.org.fj.

⁹ Section 7 of GTT Act

¹⁰ Section 10 of GTT Act

Appendix 1 – Legislation

GAMBLING TURNOVER TAX ACT 1991

[Section 1] Short title and commencement

(1) This Act may be cited as the Gambling Turnover Tax Act 1991.

(2) This Act shall come into force on 1 July 1992.

[Section 2] Interpretation

(1) In this Act unless the context otherwise requires—

accountable person means a person responsible for the collection of tax under section 4 being the person licensed under the Gaming Act 2009 to provide the gambling service in question;

CEO means the chief executive officer of the Fiji Revenue and Customs Service under section 27 of the Fiji Revenue and Customs Service Act 1998;

gambling service means a service consisting of a gaming activity which is licensed under the Gaming Act 2009;

prescribed gambling service

State means the Government of the Republic of Fiji; and

tax means tax imposed under section 3.

(2) For the purposes of the application of this Act in relation to—

a) the acceptance of a bet; or

b) the provision of a ticket, the stake money in relation to that bet, or unless the CEO determines, the price of that ticket, shall be deemed to be the consideration payable in respect of the gambling service by the acceptance of that bet or the provision of that ticket.

[Section 3] Levy of tax

Subject to this Act, there shall be levied and paid a tax at the rates set out in Schedule 2 on the value of any consideration paid or payable by a person in respect of the provision to that person of a gambling service.

[Section 4] Liability for tax

Tax levied under section 3 is payable by the person to whom the gambling service is provided and shall

be collected from that person by the person licensed under the Gaming Act 2009 to provide the gambling service.

[Section 5] Payment of tax and returns

(1) Subject to subsection (2), an accountable person shall within 7 days after the last day of each month—

a) pay to the CEO the amount of tax due and payable in respect of the gambling services provided by him or her during that week; and

b) make and send to the CEO a return, in such form as is approved by the CEO, setting forth such particulars of the transactions in relation to the gambling services provided by him or her during that week as the CEO requires for the purposes of this Act.

(2) The CEO may, by notice in writing to an accountable person, require that tax due and payable in relation to the gambling services provided by that person to be paid at such interval of less than one month as is specified in the notice, in which case any tax due and payable shall be paid within 14 days after the expiry of that lesser period.

[Section 6] Accountable persons to register with CEO

(1) Subject to subsection (2), every person who carries on or is about to carry on any trade, business, profession or vocation in respect of which he or she is or will be an accountable person, shall on or before 1 July 1992, or within 30 days of the commencement of that trade, business, profession or vocation, whichever is the later date, register with the CEO—

a) his or her name and address;

b) the names and addresses of his or her partners and associates, if any, indicating the precedent partner; and in the case of a company, the names and addresses of the directors of the company;

c) the trade or business name where the trade, business, profession or vocation is carried on under a name or style other than his or her own name; and

d) the place and address, if any, where he or she carries on or intends to carry on his or her trade, business, profession or vocation; and in the case of a company, the location and address of the registered office.

(2) It shall be deemed to be sufficient compliance with subsection (1) if, in the case of a partnership, the precedent partner, and in the case of a body of persons, the manager or other principal officer, effects the registration of that partnership or body of persons.

(3) For the purposes of this section, “precedent partner” in relation to a partnership, means the partner who, of the partners resident in Fiji—

- a) is first named in the agreement of partnership;
- b) if there is no agreement, is named singly or with precedence over the other partners in the usual name of the partnership; or
- c) is the precedent active partner if the partner named with precedence is not an active partner, and,

where no partner is resident in Fiji, means the attorney, agent, manager or factor of the partnership resident in Fiji.

(4) Notwithstanding subsection (1), a person who is registered under the Turnover Tax (Miscellaneous Services) Act 1983 shall be deemed to have been registered under this section as if that Act were still in force and not repealed.

(5) An accountable person who fails to apply for registration when and as required under subsection (1) is guilty of an offence punishable by a fine not exceeding \$25,000.

[Section 7] Summary of turnover

(1) Subject to subsection (2), on or before the last day of February of the year next following a year in which tax was collected by an accountable person, that person shall deliver personally, or send by post, to the CEO a summary in duplicate, in a form approved by the CEO, containing the following particulars—

- a) the name and address of the accountable person;
- b) the gross amount of all considerations paid or payable to him or her in respect of the provision of

gambling services during the year immediately preceding that during which the summary is, under this section, required to be delivered or sent; and

c) the total amount of tax collected by him or her during the last mentioned year in accordance with section 4.

(2) On the cessation of business by an accountable person, the CEO may require that person to deliver or send the summary within such time as the CEO may specify.

[Section 8] Access to documents and premises (Repealed)

[Section 8A] Application of the Income Tax Act 1974(Repealed)

[Section 9] Compounding of offences(Repealed)

[Section 10] Refunds

(1) Where an accountable person satisfies the CEO that an amount of tax paid by that person to the CEO exceeds the amount that was properly payable, the excess shall be refunded to that accountable person, provided that no refund shall be made under this subsection after the expiration of the period of 3 years immediately after the end of the month in which the gambling services were provided by that accountable person, unless written application for the refund is made by or on behalf of that person before the expiration of the period.

[Section 11] Tax held by accountable person deemed to be held in trust for the State (Repealed)

[Section 12] Exercise of powers of Commissioner by other officers (Repealed)

[Section 13] Regulations

The Minister may make regulations, not inconsistent with this Act, for the better carrying into effect of this Act.

SCHEDULES

SCHEDULE 1 (Repealed)

(Section 2) - Prescribed Gambling Service

“SCHEDULE (Section 3)

RATE OF GAMBLING TURNOVER TAX

On the value of consideration paid or payable by a person in respect of the provision to that person of a gambling service, the rate of Gambling Turnover Tax payable is 15%.”