

Tax changes in Fiji

Written by Jinita Prasad

10.28.2016

Key Points

- Fiji ranks as one of the countries with the lowest corporate rates.
- With the Income Tax Act 2015 introduced in the beginning of the year, new business tax laws are now in place.
- Example, VAT is now applicable on the business of dealing in residential accommodation rental income that exceeds \$100,000 per year.

Introduction

Following the National Budget for 2016-17 coming in to effect from 1st August and with the *Income Tax Act 2015* being introduced from beginning of this year, a recent tax workshop attended by PLN Advisory highlighted how all this has translated into new business tax laws and what it actually meant for businesses and investors.

Fiji ranks amongst countries with lowest corporate tax rates with companies paying 20% tax on profit since 2012 and as low as 10% if the company is listed on the South Pacific Stock Exchange, making Fiji a great destination to invest. However, as the tax revenues come under pressure with reduced corporate tax rates, over the last few years we have seen a number of other taxes creep up as a result, having an impact on not only the cost but the ease of doing business in Fiji.

Income Tax or Capital Gains Tax?

The ambiguity surrounding business income and capital gain dates back to when capital gains tax did not even exist in Fiji. The remnant of the old and much argued section 11(a) of the *Income Tax Act* (Cap 201) continues in the definition of business activity and business income in the new Income Tax Act. Business activity includes amongst other things, any profit making undertaking or scheme, even if it is one-off in nature and may not necessarily be regarded as income according to ordinary concepts.

The other area of contention is around the definition of capital assets, depreciable assets and structural improvements. Prior to 2016, it was clear that assets such as land and building used to derive rental income would be subject to capital gains tax upon disposal. However, capital assets now exclude depreciable assets such as structural improvements which is defined as "...any building, road, driveway, car park, pipeline, bridge, tunnel, airport runway, canal, dock, wharf, retaining wall, fence, power lines, water or sewerage pipes, drainage, landscaping or dam."

What this means is that if depreciable assets such as buildings are disposed at value in excess of their written down value, the gain is likely to be treated as income and added to the gross income of the person for that year. It is also important to be mindful of Social Responsibility Tax (SRT) which is applicable to individuals whose income is above \$270,000. Individuals with income below this level could find themselves subject to SRT if the gain from disposal of properties are included in their total income for the year.

PLN Advisory

In practice, sale of depreciable assets will still attract a 10% tax on the gain on disposal in order to obtain the CGT clearance. But this will be offset against the total income tax payable by the taxpayer at the end the year.

Items such as debt forgiveness including related party loans being forgiven, which could be one-off and more capital in nature are now constituting business income, hence making the line between income tax and CGT more blurred.

Deemed Dividends

The deemed dividend provisions for undistributed profits have been reintroduced for dividends in respect of 2016 and onward. Deemed dividends are subject to dividend tax of 3% for residents and 9% for non-residents on any undistributed profits not distributed by the sixth month after the end of the previous tax year. This tax doesn't apply where a company can prove that the profit has been or will be reinvested for the maintenance or development of the business of the resolution but the area of concern here what extent of proof for reinvestment will be satisfactory for FRCA. There is a need for some guidance notes or practice statement around this to clearly identify what companies can do with undistributed profits and not be subject to the deemed dividend tax.

There is also a 1% transitional tax applicable on undistributed profits for 2014 and 2015.

Value-Added Tax

As announced in the last National Budget, VAT is now applicable on the business of dealing in residential accommodation rentals where the annual turnover from such rental income exceeds \$100,000 per year. This was previously exempted from VAT and its imposition as a goods and sales tax means that it will effectively be passed on to the end user, being the tenants. However, the inclusion of this good and sales tax which eventually passes on to the tenants may be in conflict with the current rent freeze that the Commerce Commission has had in place for a few years now.

Other changes include non-resident withholding tax which used to be applicable on professional services and now extends to accommodation, airfares, transport and allowances - expenses which could purely be just reimbursement in nature.

Stamp duty has also now changed to an ad valorem levy which means it is payable at the Sale and Purchase Agreement stage and not upon lodgement of the transfer as previously done. A refund could be applied for if the transaction did not get fully executed. Stamp duty rates for residents is 3% and 10% for non-residents.

Some of these amendments may affect you and your business and it is very important to get proper tax advice on this.

Contact

For more information please contact:

Jinita Prasad

General Manager, PLN Advisory

Aus +61 466 811 562 **Fiji** +679 777 7744

E j.prasad@plnadvisory.com



This work is licensed under the Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License.