

10 August 2020

Newsletter

Environmental Climatic Adaptation Levy (ECAL) Gazette Notice August 2020 Update

Ernst & Young wishes to bring to your attention the ECAL amendments effective 1st August 2020.

A. Amendments to the Principal Act:

1. Background

The Environment and Climate Adaptation Levy Act 2015 was enacted in 2015 to impose the then Environmental Levy on prescribed services. The Act was subsequently amended in 2017 to extend the then Environmental Levy to prescribed items and income and rename the Environmental Levy as the Environment and Climate Adaptation Levy (ECAL).

2. ECAL Rate and application

The Act is amended to reduce, by 5 percentage points, the Levy payable on;

- (i) Prescribed services under Schedule 1 to the Act;
- (ii) Imported goods listed under Schedule 2 to the Act; and
- (iii) Prescribed income and the charter of superyachts.

3. New threshold

The Act is amended to increase the threshold for prescribed services under Schedule 1 to the Act, from services with an annual gross turnover exceeding or equal to \$3 million.

4. Sub-sequential changes

The following legislations changes are affected by the above amendment:

- (i) Section 2 of the Superyacht Charter Act 2017 to 5% of such fee;
- (ii) Section 2 of the ECAL Act to increase the threshold for prescribed services under Schedule 1 to the Act;
- (iii) Section 3 of the ECAL Act to reduce the levy payable on the turnover of persons conducting a business involving the provision of prescribed services listed in Schedule 1 to the Act;
- (iv) Section 5 of the ECAL Act is amended to provide parameters for registration -

“Any person who, in the course of carrying out the prescribed service, has reasonable grounds to believe that his or her annual gross turnover–

- (a) on or after 1 January 2016 and before 1 August 2020, exceeded \$1.25 million; or
 - (b) on or after 1 August 2020, will exceed \$3 million”
- (i) A section 9B is inserted in the Principal Act to allow the payment of drawback for persons who import goods for the purposes of re-export. The payment of drawback is only applicable based on specific conditions.

“Where goods have been imported from a foreign port and are then exported to a foreign port or as ship’s stores without having been subjected to any process in Fiji, an amount not exceeding the Environment and Climate Adaptation Levy paid in respect of the importation of the goods may be repaid as drawback if the following conditions are complied with–

- (a) the goods must be identified to the satisfaction of the CEO with the original import invoice and with the entry for the payment of the Environment and Climate Adaptation Levy in Fiji;
- (b) the re-exportation must be made within one year from the time of importation or the date of clearance from a bonded warehouse or within such further period as the CEO may, in special circumstances, approve;
- (c) the claim for drawback must not be less than \$50 in respect of any one commodity entered as a separate item on the original entry; and
- (d) the claim for drawback must be established at the time of the re-export, and payment must be demanded within one month from the date of the entry for shipment or within such further period as the CEO may, in special circumstances, approve, provided that no drawback may be payable on any damaged goods or on any goods that are not in all respects in as good and sound condition as when imported or removed from a bonded warehouse.
- (e) No payment of drawback is to be made until the aircraft or ship carrying the goods has left Fiji.”.

To reduce the Levy payable on imported goods, the ECAL Act in schedule 2 is amended as by inserting the following;

- ▶ Code 232: The importer of goods to which Section 10 of the Customs Tariff Act;
- ▶ Code 284: Companies or entities engaged in approved Government Projects; and
- ▶ Code 285: Government Ministries.

The following exemptions from ECAL included in schedule 2 of the same are as follows;

- ▶ Code 201A: The President and his family;
- ▶ Code 203: Diplomatic missions;
- ▶ Code 204: International organizations;
- ▶ Code 205: Members of a State, an organization or agency;
- ▶ Code 206: Consular posts headed by Career Consular Officers;
- ▶ Code 232: The importer of goods to which Section 10 of the Customs Tariff Act;
- ▶ Code 284: Companies or entities engaged in approved Government Projects; and
- ▶ Code 285: Government Ministries.

Let us know should you wish to seek clarifications on the issues highlighted.

Our advice is based on the current taxation legislation and our understanding of FRCS’s current interpretation of the law. We note however that, it is our experience that the FRCS can be inconsistent in their interpretation of the tax law and we cannot guarantee that the advice will not be challenged. Nor is it possible to guarantee the outcome of such a challenge if it occurs. Should you have any contact from the FRCS in respect of this advice, we recommend that you contact us for advice on how to proceed.

It is also important that you ask us to review any advice already given if a transaction is delayed, or is to be repeated, or if an apparently similar transaction is to be undertaken. Our original advice may no longer be applicable or appropriate in such circumstances.



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