



FIJI INSTITUTE OF ACCOUNTANTS

Submission to the Ministry for Finance

For the 2014 National Budget

August 2013

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THE FIJI INSTITUTE OF ACCOUNTANTS

The Fiji Institute of Accountants (FIA) is the professional organization representing the interest of accountants in Fiji, and is established under the Fiji Institute of Accountants Act (Cap. 259).

Our Institute is a fully registered member of the International Federation of Accountants (IFAC) which is the international parent body for most national accounting bodies in the World and the Confederation of Asian and Pacific Accountants (CAPA).

As a full member of IFAC, FIA has adopted, and conduct workshops and seminars for its effective implementation, various international standards, including:

- International Financial Reporting Standards (IFRS), including International Accounting Standards (IAS)
- International Standards on Auditing (ISA)
- International Code of Ethics
- International Standards on Education.

FIA, the pre-eminent body representing the diverse interests of more than 650 accounting, finance and business advisory professionals working in the private sector, public sector, public practice, industry and commerce, academe and the not-for-profit sector, is pleased to make this 2014 Budget Submission. Membership is on an individual, as opposed to an entity basis.

The overall governance of the FIA rests with the Council. The FIA has several committees focusing on Education and Membership, Accounting and Auditing Standards, Code of Ethics, Professional Development, Business & Government and Law Review, Journal, Act and Rules and Investigation and Disciplinary.

The key functions of the FIA are:

- To promote excellence in advocacy of the accounting profession and accountants' performance through education and professional development;
- To initiate research and formulate policies that facilitates improved performance of accountants;
- To represent the views and interest of accountants to Government, regulatory bodies and the community;
- To provide timely relevant and targeted information and support services to members and, where appropriate, Government and the community;
- To maintain a members' code of professional and ethical conduct; and
- To develop strategic alliances with other organizations domestically and internationally to further the objectives of the FIA.

INTRODUCTION

The FIA thanks the Ministry of Finance for the invitation and welcomes the opportunity to make a submission on the 2014 National Budget.

The FIA notes the recent release of the Fiji Constitution by the Bainimarama Government. The Constitution is critical and fundamental as it provides the basic legislative framework for the country. The FIA also notes the commitment to holding the National Elections in 2014. The FIA commends the Government on these initiatives as they are important ingredients for the overall stability, growth and development of the country.

With the introduction of the Constitution, the Government may wish to consolidate existing plans and strategies as part of the overall development plan for the next few years (ideally, at least five years) with a view to ensuring a balanced, stable, focused and sustainable social, economic and political environment. The various relevant areas would have policy frameworks which are consistent with the overall development plan. These policy frameworks should set the bases for necessary legislative amendments.

FIA is making a conscious effort to narrow the scope of its submissions to key areas which it considers critical in light of the FIA's view of the Fiji economy.

The focus of our submission is:

- Promoting investments and economic activities at large and in particular Small and Micro Enterprises (SMEs) so that economic growth is more balanced and broad based.
- Improving tax administration and compliance policies, procedures and practices to enhance tax collection in an accurate, fair and consistent manner.
- Review of the taxation system and policy framework with an emphasis on developing a broad based, business focused, sustainable and consistent revenue collection system.
- Developing the agricultural potential of the country including investment therein, and viable food security and energy alternatives.
- Reforming Fiji's public sector to reduce its size and increase efficiency and productivity.

Continued challenges reflect the need for the effective planning, implementation of action plans to achieve the desired results in the short to medium term, and measurement of performance outcomes.

EXECUTIVE SUMMARY

Our submissions on the 2014 National Budget are provided in detail below. This executive summary focuses on some of the key areas, the more important of which if properly addressed by Government should result in positive changes, an improved business environment and investor confidence leading to growth in investments and economic activities.

- The key to moving forward and achieving Government objectives lie within securing an improved business environment and investor confidence, and thereby promoting further investments and economic activities.

Investors across the economy are experiencing many forms of bureaucracy and regulatory burdens in establishing businesses and doing business in Fiji. These include compliance cost and regulatory burdens imposed by different institutions which divert limited resources from productive to unproductive purposes. One of the key factors to achieving Government objectives is to promote investments through the ease of doing business.

- A common concern being raised by taxpayers and investors is the current revenue collection approach being undertaken by FRCA. FRCA should, without compromising its position, be working with taxpayers and investors in collecting the proper amount of tax revenue and not against them.

Tax laws are being promulgated with retroactive effect. Furthermore, tax laws are applied inconsistently and policies, practices and interpretations are being changed ad hoc. This cannot but have a negative impact on the mindset of investors. Investors need clear policies, practices and interpretations that are applied prospectively to make informed decisions which form the basis for their investments.

- There is a need for the review and streamlining of incentives and support to targeted industries which have potential for creating further employment, exports, economic activities together with meeting social obligations spread across the wider population.
- The development of the micro and SME sector is critical for the social and economic development of the country spread across remote and rural areas. This sector needs to be given due attention, nurturing and support.

OUR SUBMISSION

1. PROMOTING INVESTMENT AND DOING BUSINESS IN FIJI

A key component to Fiji's prosperity and stability is investment and economic activity which are achieved through improved investor confidence and business environment.

Some of the matters have been covered in past years' submissions by the FIA. These are reiterated in this year's submission as important aspects to promoting investment and business in Fiji.

- Compliance Cost and Regulatory Burden – looking at ways to reduce red tape and compliance costs, leading to an improvement in the ease of doing business.
- Commerce Commission – review and improve policies, practices and procedures within the Commerce Commission with the objective of reducing compliance cost. Align the functions and activities of Commerce Commission to Government policy of promoting investments and economic developments, and particularly for the development of micro enterprises and SMEs.
- Introduction of the Income Tax Decree and the Companies Decree – The Income Tax Decree and Companies Decree have been previously announced to be effective 1 January 2013. However, these legislation, which are important for and substantially impact businesses in Fiji are currently still in draft and there is uncertainty on its introduction and effective date. It is recommended that the application of the legislation be prospective, instead of retrospective.
- Process in the introduction of legislation – An amendment to the Foreign Investment Act, which would significantly adversely affect foreign investors, was recently announced. However, no notice was given to persons nor was there comprehensive consultation with the public or persons who would significantly be affected by the legislation. This adds more uncertainty on the foreign investment climate in Fiji. The process prior to the introduction of legislation should be consistently followed. Furthermore, FIA recommends a review of the amendment to the Foreign Investment Act. Although the underlying intentions for the introduction of the provisions may be noble, the implications may be severe, including hindering investments in Fiji.
- Employment Relation Promulgation (ERP) – The FIA recommends that the proposed changes to the ERP be reviewed as the legislation contains provisions that appear to be unreasonably harsh on employers.

2. INTERNATIONALLY COMPETITIVE TAX REGIME AND FIJI REVENUE AND CUSTOMS AUTHORITY (FRCA)

2.1 Prospective imposition of tax laws

Tax laws and its practical implementation should be applied prospectively. An example would be the recent amendment to the Income Tax Act, which was gazetted in May 2013 but is applicable from 1 January 2013.

Another example would be the Capital Gains Tax (CGT) Decree which effectively can impose CGT on capital gains derived well before the introduction of the law.

2.2 Consistency of Policy, Practices and Interpretation

All economic activity interacts with and is impacted by the country's revenue policies and practices.

The FIA makes the following comments and suggestions:

- There should be an overall policy framework for taxes and tax legislation should be consistent with the policy framework. We note some commendable changes to the legislation in the recent past, however quite often these positive changes are contradicted by other amendments to the legislation (e.g. reducing the corporate tax rate to 20% but reducing the loss carry forward period to 4 years). A proper policy framework would assist in ensuring that any change to legislation is consistent with the overall framework. Ensuring collective focus in achieving goals National goals.

- FRCA must apply its policies and interpretations consistently.

FIA has noted that FRCA has been changing its policies, practices and interpretation on a number of issues (withholding tax, deemed dividends on sale of shares, dividends generally and associated tax credits etc). The mechanism for challenging decisions of FRCA are simply through the Tax Tribunal which can be an expensive and lengthy endeavour, particularly where the matter is one of principle and the quantum of tax is not significant.

Such practices create more uncertainty for businesses and discourage further investment.

- Changes in interpretation, policies and practices by FRCA should not be introduced with backdated effect; nor be applied at the discretion of line officers, but rather by specific policy of the Authority.
- The provisions for binding public and private rulings in the Tax Administration Decree 2010 should be made effective. In accordance with its powers under these

provisions, FRCA should issue binding public and private rulings to ensure consistency in FRCA practices and certainty for taxpayers and investors.

- Since the Income Tax Act has been amended to include proper transfer pricing provisions and the Transfer Pricing Regulations have been introduced. The three percent limitation on Head Office and similar charges is no longer necessary. Hence, section 19A of the FITA should be repealed.

2.3 Role of FRCA in Promoting Investments and Economic Activities

FRCA should understand and not underestimate its role in promoting investment and economic activities. The FIA appreciates that FRCA is in the midst of various institutional review processes (including IT, transfer pricing, gold card taxpayers etc).

Some other avenues available to FRCA to assist in this role include:

- Identification and implementation of specific measures to improve dialogue and understanding between business community / investors and FRCA. Establish forums to consult business and community /investments.
- Continuing to undertake independent review of the tax administrative policies, procedures and activities to assess its impact on business activities and economic activities, and its impact on the economic development of the country. Such reviews are carried out regularly in a number of countries with the objective of identifying difficulties and problems faced by businesses and taxpayers, with suggestions for improvements and systems and processes aimed at promoting business activities and economic growth.
- Improving customer service levels and internal efficiencies to allow business processes to be completed effectively and efficiently by relevant officers, and minimizing the duplication of effort and time to attend to tax payer matters.

2.4 FRCA – As Business and Commercial Enterprise

There is a need for FRCA to view its operations from a commercial or cost/benefit approach. Inefficiencies in business and IT processes as well as time spent by staff in resolving matters are all costs to business.

An example of this is the legislative requirement that various taxes be paid on the last business day before month end. To assist taxpayers comply with this requirement FRCA, instead of changing the legislation to revert to payment being due by the next business day after month end, pays staff overtime to work on a Saturday (say) so that taxpayers can meet their payment obligations. The gesture is appreciated, however from a cost/benefit perspective it would likely be more cost effective to allow payment on the next business day rather than incurring additional costs for minimal added

benefit as there are generally few months in a calendar year where the month ends on a weekend (or public holiday).

Other measures that can be reviewed include:

- Further profiling of taxpayers with the objective of providing greater flexibility to taxpayers (including SMEs and individuals) maintaining high standard of compliance.
- Review the “Gold Card” system to:
 - extend it beyond high value business taxpayers so that compliant SMEs can avail themselves to the benefits of being *good tax citizens*
 - minimise the processes and procedures that Gold Card taxpayers still encounter , so that the privilege of being a Gold Card member brings with it special efficient services but also has certain responsibilities that require the taxpayer to adhere to.
 - remove the additional duty concessions and personalized services afforded to individuals because of the Gold Card status of the business entity. This will eliminate issues of potential fringe benefits and discretion.

2.5 VAT and Income Tax Refunds and Interest on Delay in Refunds

As an encouragement to FRCA to continue to improve with its refund practice, interest should be paid for the delay in issue of refunds as allowed under the respective legislation.

2.6 Tax Agents Portal

We note that work is currently being slowly undertaken on the Tax Agents Portal project. The success of this project is imperative to the enhancement of tax agents acting as “satellite offices” of FRCA.

2.7 Taxpayers’ Charter and Tax Dispute Resolution Service

Long overdue is the establishment and promotion of the Taxpayers’ Charter and the Associated Tax Dispute Resolution Service. These will allow tax payers an avenue to seek redress on their issues, but also more importantly set a bench mark for FRCA’s service standards and practices.

3. TAX LAWS AND ADMINISTRATION

With the upcoming introduction of the new Income Tax Decree, the FIA’s comments on the area of tax laws and administration is limited to existing anomalies that we believe should be reviewed and amended/repealed or introduced. Separate

submissions have been made (and will continue to be made) in respect of the new tax decree.

3.1 Section 8 deemed dividends and CGT

With the introduction of Capital Gains Tax, the deemed dividend provisions at the time of sale of shares (or “of a company”) provided under Section 8 of the Income Tax Act should be removed.

3.2 Withholding Tax

A clearly **articulated and applied** position and reasoning in respect of the levying of withholding on cross border payments is essential for business. These tax rules should be consistent with the overall provisions of the Income Tax Act and strictly adhere to the double tax agreements that Fiji has with many countries.

As Fiji continues to grow economically and Fiji businesses utilize foreign professional services, the impact on business costs increases significantly when FRCA incorrectly levies withholding tax on these services and the Fiji business is required to bear the cost of the incorrect imposition of withholding tax. Furthermore, funds that may be used for deriving more income (which means more revenue in the form of taxes for the Government) are diverted to unproductive purposes in objecting to the incorrect imposition of withholding taxes.

Additionally where the profit margin on professional services is very low (say 7%) it is inequitable to charge withholding tax at a rate of 15%. To address this inequity we suggest that the old rules be reintroduced and allow abatement or rebate of withholding tax paid to non-residents by allowing the non-resident to lodge income tax return and claim credits for withholding tax paid.

The above change would be consistent with international practice and reduce the cost of doing business as the tax is often borne by the Fiji entity.

3.3 Dividend Regulations and Tax on Dividends

FRCA has, for a few years now, repeatedly changed its position in respect of qualifying dividends both prospectively and retrospectively. Changing policies, interpretation and approach do not yield investor or business confidence.

A clearly articulated and reasoned position with respect to the calculation of qualifying dividends is essential.

3.4 Simplified Tax System for Micro Enterprises and SMEs

Continue to review the simplification of the tax system for all micro enterprises and SMEs. Some initiatives have already been adopted however further work is warranted

in the area. This should include a review of relevant legislation to identify areas and ways to reduce compliance costs, to reduce tax administration costs and make taxation simple.

Furthermore, tax losses from business should not be “quarantined” as indicated in the draft Income Tax Decree. Most micro enterprises and SMEs are established by individuals who are employed. The business is indirectly or directly supported or financed by these individuals’ salaries. Consequently, the “quarantine” of tax losses (i.e., not allowing the offset of business losses against employment income) discourages the development of micro enterprises and SMEs. We strongly recommend that this policy not be adopted due to its huge potential impact on the development of micro enterprises and SMEs.

3.5 Contractors Provisional Tax

Consideration should be given to repeal the current provisions relating to Contractors Provisional Tax and replace the same with a simple but effective and workable system.

A reduction in provisional tax to say 10% should also be implemented in line with the reduction in corporate tax rate to 20%. The current high rate of provisional tax, compared with corporate tax rates and top marginal rates of tax mean that business cash flow is tied up unnecessarily in excess tax credits.

4. REVENUE GENERATING INITIATIVES

4.1 Tax Evasion and the Hidden Economy

Review and implement initiatives taken by other countries for reducing the level of tax evasion and the hidden economy. This could include the declaration of a tax amnesty period, which would encourage voluntary compliance and bring part of the hidden economy into the formal tax net.

4.3 Income Tax Rates and Social Responsibility Tax

The FIA appreciates that Government has social obligations arising from natural disasters, unplanned projects and special needs, that those better off in society (corporate and individuals) should share in. A fairer, more equitable way to raise funds for such initiatives (without compromising Government revenue) is to levy a broader range of taxpayers (corporate and individual) at a lower rate and deleting the imposition of Social Responsibility Tax (SRT).

Alternatively, the SRT may be levied as a progressive tax of say: 3% for income levels in excess of \$250,000; 4% for income levels above \$350,000 and 5% for income levels above \$450,000 for both corporate and individual taxpayers.

5. TARGETED INDUSTRIES AND TAX INCENTIVES AND OTHER SUPPORT

Industries and sectors which assist with import substitution, boost foreign reserves, have high employment numbers and show potential for growth should be strongly encouraged.

Sectors and initiatives for consideration include:

5.1 Agriculture Sector – Tax Incentives and Other Support

Serious consideration should be given to:

- Introducing bold and effective incentive package for agriculture sector, including the industries that support the growth of the agricultural sector (e.g., primary input supplies such as fertiliser, etc and secondary conversion of agricultural produce such as manufacturing, processing, etc)
- Granting total tax exemption to income from agriculture.

Alternatively, current provisions should be amended to allow for tax incentives on a pro-rata basis where turnover exceeds \$300,000, and should be available to all kinds of Agricultural activities. Currently, tax incentives for SME's are available only if total turnover is less than \$300,000 per annum and is available for selected prescribed activities in Agriculture, Fisheries and Tourism sectors only.

- Establish processing ventures or incentives to encourage the same which would support rural communities and farmers creating opportunities through diversifying agriculture, fisheries and forestry ventures.
- Reintroduction of the indefinite carry forward of tax losses given the high risk of investing in the sector.

5.2 Exports – Tax Incentives

The encouragement of export industries which contribute to foreign reserves is important to an economy like Fiji.

Export income deduction available under section 21B of the ITA should be maintained at least at 50%. The proposed reduction in export income deduction rates should be deferred indefinitely for the time being.

Export incentives should be available to all exporters of goods and services to the maximum extent. We believe this will assist in promoting further investments, create jobs, business activities and economic activities.

Define “re-exports” for the purpose of export income deduction as “re-exports” from bonded warehouse or direct exports.

5.3 Hotel Industry – Tax Incentives under the 11th Schedule of the Income Tax Act

Developer profits exemption, which was repealed in 2007, should be restored in the 11th Schedule of the Income Tax Act. This incentive was credited for attracting a lot of investment into the industry when it was available.

Tourism incentives should be continued and clarity brought into existing legislation in respect of recoupment and tax losses.

5.4 Fishing

Fish being a natural resource needs to be managed effectively and with the objective of retaining maximum value within Fiji. Specific measures should be provided to encourage processing and value added activities within Fiji.

This important natural resource of seafood is being depleted. There is a need for Government to review this industry and provide greater incentives for the sustainable development of the industry.

5.5 Garment Industry

The garment industry as a whole is a significant employer and also a major exporter for Fiji. Although significantly reduced in size as an industry from the early days when Tax Free Factory /Tax Free Zone regulations were first introduced, the industry believes that it still has a significant place in the Fiji economy by offering employment to people in the lower wage bracket and generating export revenue.

Government should offer whatever tax incentives are allowable under WTO rules to encourage more investment in the industry, assist and support its marketing efforts, and assist in skills training to improve productivity.

5.6 ICT Industry

As a significant contributor to both foreign income and employment, the ICT sector is a fast growing area in Fiji’s economy. Support in the way of tax breaks and capital expenditure incentives are important to ensuring the ongoing attractiveness and viability of the industry. These incentives should be available to all investors in the industry (both existing and new) and be measured against certain criteria such as income levels, employee numbers etc.

Consideration should be given to zero-rating for VAT purposes the supply of ICT services to exempt entities in Fiji. This would promote the growth of the industry and allow the industry to develop and offer world class services both locally and abroad.

5.7 Sports and sporting industry

Our wealth of sporting talent should be appropriately and properly nurtured and developed to ensure we achieve sporting excellence as a nation and reap the rewards of the same including enhancing the substantial level of inward remittances to Fiji.

This goal will require the development and provision of affordable sporting facilities and coaching while ensuring that there are proper administrative structures in place for the development of all sports.

With Government focussing on the development of larger infrastructure requirements for sports, the private sector could be motivated to assist by providing incentives such as a 200% tax deduction for contributions to sports through the Fiji Amateur Sports Association and National Olympic Committee (FASANOC) and the Fiji Sports Commission. Setting the minimum level of this contribution at \$10,000 would allow more entities to contribute particularly to minor sports which struggle to find sufficient support.

While the tax deduction would mean a potential decrease in tax collections by 40% of the contribution, the donor would still be contributing 100% of the amount for National interests. Hence the country as a whole would be getting 80% more for Nation building than it would have got without this contribution to sport.

6. STRUCTURAL REFORMS

6.1 Public Sector Reform

- Continue to implement public sector reform measures to deliver efficient and effective services.
- Enforce accountability in the public service.
- Review disciplinary procedures for civil servants to expedite the process.

6.2 Government Services

- Accelerate E-Governance initiatives.
- Overhaul as a matter of priority:
 - Registrar of Companies
 - Titles Office
 - Department of Town and Country Planning
- Laws of Fiji - update all legislation with all amendments to-date. Public should have easy access through internet to all laws of Fiji with historical updates and amendments.

7. FISCAL POLICY

7.1 Government Debt and Expenditure Policy

FIA supports Government's expenditure policy which is aimed at offering efficient Government services, developing infrastructure, and support and assistance to the needy. Emphasis however needs to be placed on proper management and control of expenditure and improving efficiencies within Government, thereby maximizing returns for each dollar spent and importantly getting it right the first time.

We also commend Government's initiative in increasing its level of capital expenditure. However, operating expenditure should be reduced, particularly for non-productive areas.

7.2 Health Care and Education

There is a need for further improvements to hospitals and health centres from both a capital and operating perspective. There is also a need for improvements to the level of service and the standard of practices at these centres.

Commitment to education should be continued. Focus should be given for improving school facilities, improving academic resources and introduce strategies and measures to develop a pool of qualified, skilled and competent teachers.

Improving the teacher to students' ratio could improve the education standards.

7.3 Judiciary

An efficient and independent judiciary is one of the critical factors for attracting investment.

Measures should be taken to further strengthen the Judiciary to provide assurance to investors on the effectiveness of the judicial system and processes.

CONCLUSION

Government recently unveiled the Constitution and reaffirmed that National elections will be held next year. These two announcements are significant in that they are seen as essential elements for the sustainable development of the country.

The consolidation of existing plans into the National Development Plan for the medium to longer term would enhance the overall framework set by the Constitution. Policy frameworks for the various relevant areas should be reviewed and developed consistently with the National Development Plan. The policy framework for relevant areas such as trade, investment, fiscal and monetary policy including taxation should then be used to ensure that the existing and future laws are consistent with this policy framework.

We note that while Government has announced some good initiatives in the recent past, these have sometimes been contradicted by other changes in legislation and regulations. The successful achievement of overall goals has been affected by these conflicting policies. The impact of such measures includes increasing the cost and reducing the ease of doing business, wasting limited resources on unproductive activities and reducing confidence and investment in the country.

Establishing clear and transparent policies after proper consultation with stakeholders and announcing these as part of the budget, allows stakeholders to plan accordingly. Ensuring these policies are consistent with the overall development plans would further enhance investor confidence.

Increasing investment, import substitution and exports in the medium to long term are imperative for economic stability and growth. New and innovative measures need to be introduced for the sustainable use of the vast potential in the various sectors including tourism, agriculture, ICT, mining, sports and small and micro enterprises.

Being the largest professional body in Fiji, the FIA has a wealth of knowledge and experience, and would be pleased to provide further assistance, guidance and support to Government, and work with Government to achieve our mutual National goals.