



FIJI INSTITUTE OF ACCOUNTANTS

Submission to the Ministry of Finance,
National Planning and Sugar Industry

For the 2012 National Budget

July 2011

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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 full member of the International Federation of Accountants (IFAC), which is the international parent body for most national accounting bodies in the World, as well as a full member of the Confederation of Asian and Pacific Accountants (CAPA).

As a full member of IFAC, FIA has adopted, and conducts workshops and seminars for the effective implementation of, 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 is 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. Membership is on an individual, as opposed to a corporate, 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 welcomes the opportunity to make a submission to the Ministry of Finance on the 2012 National Budget.

The focus of our submission is:

- Promoting investments and economic activities at large.
- Reforming Fiji's public sector to reduce its size and increase efficiency and productivity.
- Developing the agricultural potential of the country including viable food security and energy alternatives.
- Promoting Small and Micro Enterprises (SMEs) so that economic growth is more balanced and broad based; and
- Improving tax administration and compliance policies, procedures and practices. Issues continue to arise between the Fiji Revenue and Customs Authority (FRCA) and the business community on taxation. There is a need for better understanding and dialogue between the two to find solutions. FRCA has a critical role to play in Fiji economic development, and without compromising its position, FRCA must provide the necessary support to promote investments, promote economic activities, and assist with economic recovery and development.

Whilst Government has generally promoted positive initiatives and policies, the actual implementation of these policies and initiatives needs to be more vigorously pursued.

The challenges noted during past years call 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 2012 National Budget are provided in detail below. This executive summary concentrates on key areas, the most important of which if properly addressed by Government will result in positive changes and improved business environment and investor confidence leading to growth in investments and economic activities.

- The key to moving forward and achieving Government's objective of promoting investments and economic development lies with securing improved business environment and investor confidence, and thereby promoting further investments and economic activities.

Investors have been experiencing many forms of bureaucracy and regulatory burdens in establishing businesses and doing business in Fiji. It comes in the form of compliance cost and regulatory burdens imposed by different institutions. Such environment diverts limited resources from productive purpose to unproductive purpose. The key factor to achieving Government's objective and as identified in our submissions is to promote investments through ease of doing business.

- The 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, and not against them, in collecting the proper amount of tax revenue.

Tax laws are being 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 to make informed decisions which form the basis of their investments and long term planning.

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

1. PROMOTING INVESTMENT AND DOING BUSINESS IN FIJI

1.1 Compliance Cost and Regulatory Burden

- Establish a task force to identify and remedy areas:
 - To reduce red tape and regulatory burdens;
 - To reduce compliance cost; and
 - Improving ease of doing business.

1.2 Commerce Commission

- The policy, practices and procedures within Commerce Commission should be reviewed and improved with the objective of reducing compliance cost.
- The functions and activities of Commerce Commission should be aligned to Government policy of promoting investments and economic developments, and particularly for the development of micro enterprises and SMEs.

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

2.1 Consistency of Policy, Practices and Interpretation

- FRCA must apply its policies and interpretations consistently and transparently.
- Changes in interpretation, policies and practices by FRCA should not be introduced with backdated effect.
- FRCA should issue binding public and private rulings to ensure consistency in FRCA practices and certainty for taxpayers and investors.

2.2 Role of FRCA in Promoting Investments and Economic Activities

- Implement specific measures to improve dialogue and understanding between business community / investors and FRCA. Establish forum to consult business community /investments.
- FRCA to implement specific measures aimed at providing necessary support to promote investments, promote economic activities, and for economic recovery and development.

- 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.

2.3 FRCA – As Business and Commercial Enterprise

- Operate FRCA as a business and a commercial enterprise.
- Introduce profiling of tax payers with the objective of providing greater flexibility to taxpayers maintaining high standard of compliance.

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

- Refunds owing to taxpayers are monies held in trust for taxpayers must be processed automatically as soon as these become due.
- Interest should be paid for delay in issue of refunds as allowed under the respective legislation.

2.5 Tax Agents Portal

- Tax Agents Portal project has not been successful. The project needs to be enhanced and revitalized.

2.6 Taxpayers' Charter and Tax Dispute Resolution Service

- Establish the Taxpayers' Charter and the Associated Tax Dispute Resolution Service.

3. TAX LAWS AND ADMINISTRATION

3.1 Section 11(a) Income Tax Act

- Review and clarify the application of section 11(a) of the ITA, particularly in view of the Capital Gains Tax Decree and as it relates to profits from the sale of assets held as investments.

3.2 Head Office Expenses – Limit of 3% on Turnover

- Remove 3% limit.
- Introduce specific transfer pricing rules in respect to head office management fees and head office expenses. This is to ensure the 3% limit is not misused, and at the same time to allow development of service sector where 3% limit is considered to be extremely low.

3.3 Withholding Tax

- The withholding tax rules should be changed to be consistent with the overall provisions of the Fiji income Tax Act.
- Clear rules to be put in place on applicability of withholding tax on pure cost allocations.
- Withholding tax provisions in relation to tax treaty countries should be applied consistently and in the spirit of the relevant double tax agreement.

3.4 Dividend Regulations and Tax on Dividends

- Clarify the position with respect to the calculation of qualifying dividends in respect to pre-2001 tax payments.

3.5 Simplified Tax System for Micro Enterprises and SMEs

- Introduce Simplified Tax System for all micro enterprises and SMEs as a matter of priority.
- Undertake a review of Income Tax Act, VAT Decree and other legislation to identify areas and ways to reduce compliance costs, to reduce tax administration costs and make taxation simple.

3.6 Income Tax Rates

- The maximum rate for individuals should be reduced from 31% to 28% to be in line with the corporate rate.

4. REVENUE GENERATING INITIATIVES

4.1 Transfer Pricing Rules

- Introduce formal transfer pricing rules for goods and services in line with internationally accepted practices.

4.2 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.

4.3 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.
- The new system should be based on “tax invoice” criteria. Under this system, 15% provisional tax should be deducted in the event the supplier of goods or services do not provide a “tax invoice”.

5. TARGETED INDUSTRIES AND TAX INCENTIVES AND OTHER SUPPORT

5.1 Exports– Tax Incentives

- 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 time being.
- Export incentives should be available to all exporters of goods and services to the maximum extent. FIA 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.

5.2 Agriculture Sector – Tax Incentives and Other Support

- Introduce bold and effective incentive package for agriculture sector.
- Grant total 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 to support rural community and farmers and creating opportunities through diversifying agriculture, fisheries and forestry ventures.

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.

5.4 Fishing

- Implement measures to encourage processing and value added activities within Fiji.
- Establish rules to preserve depleting natural resource of seafood.
- Explore opportunities for fish and prawn farming which for a start can provide a consistent supply to the tourism industry and can later be exported.

5.5 Garment Industry

- Identify and implement effective measures to support and achieve further growth in the garment industry.

6. STRUCTURAL REFORMS

6.1 Public Sector Reform

- Continue to implement public sector reform measures to deliver efficient and effective services.
- Enforce accountability in 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

- Fiscal discipline should be maintained including restricting Government debt and the budget deficit to sustainable levels.
- Government should reduce overall expenditure and debt while increasing the allocation for capital projects and reducing amounts for operating expenditure.

7.2 Health Care and Education

- Improve facilities and service delivery at hospitals and health centers.
- Increase capital expenditure allocation for education, and to improve facilities at schools.
- Introduce strategies and measures to develop a pool of qualified, skilled and competent teachers.

7.3 Judiciary

- Judiciary system should be further enhanced with additional resources to make it more efficient and effective, and thereby increase the level of investor's confidence and encourage investments.

DETAILED SUBMISSION

1. PROMOTING INVESTMENT AND DOING BUSINESS IN FIJI

There is an urgent need to introduce effective policies and measures directed towards improving the investor and business confidence thereby improving investment climate in Fiji.

The low levels of investment by the private sector despite high liquidity could be viewed as symptomatic of investor uncertainty.

FIA believes that the foundation for creating a conducive investment climate is possible through the provision of and maintaining low cost of doing business, ease of doing business and consistency in policies and practices.

The report and rankings published by The World Bank in 2011 indicate that Fiji has dropped in its rankings for ease of doing business, from the ranking of 43 in 2009 to 62 in 2011. When compared to neighboring island countries like Vanuatu and Samoa, Fiji does not rank favourably. The same applies in Fiji's rankings for starting a business, dealing with construction permits, employing workers, trading across borders and enforcing contracts.

The private sector must remain the engine for economic growth whilst Government focuses on creating an environment conducive to investment and economic growth.

FIA continues to stress that Fiji needs to address these issues to create the right business climate to promote investment both local and foreign.

1.1 Compliance Cost and Regulatory Burden

Recommendation:

- Establish a task force to identify and remedy areas:
 - To reduce red tape and regulatory burdens;
 - To reduce compliance cost; and
 - Improving ease of doing business.

Over regulation is a major concern to businesses small and large.

For the development of the economy of Fiji, private sector (and in particular small and micro enterprises (SMEs)) play a very critical and important role. The SMEs require support by way of reduced regulatory burden and reduced cost of doing business in Fiji.

FIA has noted that regulatory demands on doing business in Fiji are increasing. The need to register for income tax prior to even being able to register a company is one of the many examples.

1.2 Commerce Commission

Recommendation:

- The policy, practices and procedures within Commerce Commission should be reviewed and improved with the objective of reducing compliance cost.
- The functions and activities of Commerce Commission should be aligned to Government policy of promoting investments and economic developments, and particularly for the development of micro enterprises and SMEs.

The economic growth needs to be led by private sector, and accordingly, the policy objective should be encouraging more private sector market players within competitive market. This can be achieved more effectively if free and competitive market is allowed to function with minimum interference.

The objective and focus of Commerce Commission should encourage competition and development of SME and micro enterprises. It appears that the policies and practices adopted in certain areas may be counterproductive on SMEs and micro enterprises.

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

Whilst Government must continue to create a conducive investment climate through low cost of doing business, ease of doing business, and incentives and policies aimed at promoting investments, efforts must be placed on ensuring that the revenue collection approach taken by Fiji Revenue and Customs Authority (FRCA) does not have a negative impact on investment in Fiji.

2.1 Consistency of Policy, Practices and Interpretation

Recommendation:

- FRCA must apply its policies and interpretations consistently and transparently.
- Changes in interpretation, policies and practices by FRCA should not be introduced with backdated effect.
- FRCA should issue binding public and private rulings to ensure consistency in FRCA practices and certainty for taxpayers and investors.

FIA has noted that FRCA is changing its policies, practices and interpretation more so than ever resulting in amended assessments being raised on a retrospective basis and in some instances dating back to 2001 or even prior to 2000 without valid or reasonable reasons, which is beyond the 6 year limit provided under the TAD.

Such practices only give signals of uncertainty to businesses and discourage further investment.

Under TAD FRCA has the avenue to make public or private rulings and must upon an application by a taxpayer make a private ruling regarding its application of a tax law in relation to a transaction entered into or being entered into by a taxpayer. Such ruling will also give taxpayers a definitive stance taken by FRCA and eliminate room for any doubt and uncertainties in the application of tax law at a later date.

FRCA should be working within the ambit of the legislation and should be seen to be fair in its application of policies, practices and interpretations.

Economies where their revenue offices have shown a more customer orientated approach have not only gained investor confidence, but have also shown increased compliance on the part of the taxpayers.

2.2 Role of FRCA in Promoting Investments and Economic Activities

Recommendation:

- Implement specific measures to improve dialogue and understanding between business community / investors and FRCA. Establish forum to consult business community /investments.
- FRCA to implement specific measures aimed at providing necessary support to promote investments, promote economic activities, and for economic recovery and development.
- 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.

FIA appreciates that the major source of revenue for Government is through taxes and Fiji FRCA is placed with a huge burden of ensuring that it collects what is rightfully owed to Government in taxes.

However, the approach currently being taken by FRCA has a significantly negative impact on investment and business activities in Fiji.

Issues continue to arise between FRCA and the business community on taxation matters and increasingly more during recent years. There is a need for better understanding and dialogue between the two parties to find solutions.

FRCA has a critical role to play, and without compromising its position, FRCA must provide necessary support to promote investment, promote economic activities, and for economic recovery and development.

It should be noted that the increased compliance cost and inefficient services erode the advantages of lower tax. Indeed, investors rate Fiji as an unfavorable place to invest due to increasing compliance costs and inefficient services.

When investors are faced with red tape and inefficient services, it results in increased compliance cost. Such a situation diverts valuable resources from productive use to unproductive use. At the macro level, the impact of such waste of time and resources amounts to a significant sum with direct impact on investment, economic activities and loss of revenue to Government.

Equally, if compliance costs fall disproportionately on small businesses, this becomes a matter of significant concern in the Fiji economy where a vast majority of businesses are small businesses.

There is an urgent need for further improvement in tax administration and efficiency of services to taxpayers. In particular, FRCA needs to improve its systems and processes associated with processing of correspondences, processing of certificate of exemptions, processing of tax clearances, processing of assessments and refunds, updating of its computer systems, tax registrations, and dispute resolutions. It has been observed that there are number of cases where taxpayers' status in relation to tax returns and tax balances recorded in the system are not accurate or subject to disputes and disagreements, and do not reflect the true and fair position.

This issue has existed for a number of years and urgent measures still need to be put in place to further improve its systems and procedures and to provide the most effective and efficient services to the taxpayers, tax agents and investors.

Our recommendation will directly or indirectly encourage the process of voluntary compliance and improve customer (taxpayers) relationship by driving the changes that will bring about simplicity, improved efficiency and improved customer (taxpayer) services.

2.3 FRCA – As Business and Commercial Enterprise

Recommendation:

- Operate FRCA as a business and a commercial enterprise.
- Introduce profiling of tax payers with the objective of providing greater flexibility to taxpayers maintaining high standard of compliance.

The emerging trend is to manage and operate Government revenue offices as a business and as a commercial enterprise.

Undertake specific review of policies, systems and processes of FRCA with the objective of reducing compliance cost and administrative cost, and making tax compliance simple and easy. This review process will achieve multiple objectives, including:

- Reduced administrative cost to FRCA.
- Reduced compliance cost to tax payers.
- Improving efficiency of services.
- Assistance to small businesses and small tax payers.

Similar studies are regularly carried out by Government's and tax offices around the world to identify areas and ways to reduce compliance costs, to reduce tax administration costs and make taxation simple for improving tax systems, and improving compliance.

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

Recommendation:

- Refunds owing to taxpayers are monies held in trust for taxpayers must be processed automatically as soon as these become due.
- Interest should be paid for delay in issue of refunds as allowed under the respective legislation.

Currently, VAT refunds are not issued automatically on a timely basis as required under the VAT Decree. Indeed, VAT refunds are held back for long periods without any interest payment. As the private sector and investors capital gets tied up with Government instead of being used for productive purpose, this has a significant detrimental impact on businesses and the economy.

This situation effectively diverts the productive “working capital” of the business sector for funding Governments operations at no cost to Government.

A similar situation also exists for income tax and other tax refunds.

2.5 Tax Agents Portal

Recommendation:

- Tax Agents Portal project has not been successful. The project needs to be enhanced and revitalized.

In practice, the Tax Agents Portal has been unsuccessful. Even after more than 2 years of its launching, it has effectively no use.

The Tax Agents Portal was designed to allow access to client information, at first in relation to assessment and statements, and later extended to other things. The Tax Agents Portal as it currently stands is not much use to tax agents as it does not provide information in the required formats, nor is it easily accessible. There are no search engines which makes use of the Tax Agents Portal very time consuming and efficient.

2.6 Taxpayers’ Charter and Tax Dispute Resolution Service

Recommendation:

- Establish the Taxpayers’ Charter and the Associated Tax Dispute Resolution Service.

These are integral to establishing a more open and accountable Tax Office, committed to respecting the rights of taxpayers and to acknowledge and support those taxpayers trying to do the right thing.

The current practice and procedures for resolving disputes are not satisfactory, particularly in cases where Inland Revenue may not agree on the facts or interpretation of law.

There have been a number of projects which have been affected or put on hold due to disputes and disagreements with FRCA and due to delays in addressing disputes and disagreements on a timely basis.

It is important that taxpayers have faith and confidence in the tax dispute resolution system, and have confidence that any dispute will be handled fairly and on a timely basis.

Establishment of the Taxpayers' Charter and associated Tax Dispute Resolution Service are integral to establishing a more open and accountable Tax Office, committed to respecting the rights of taxpayers, and to acknowledge and support those taxpayers trying to do the right thing. Tax dispute resolution mechanism should provide the taxpayers faith and confidence that where the tax payer disagrees with any decision, the disputes will be handled independently and also fairly and quickly.

The TAD allows for the establishment of the Tax Tribunal and Tax Court and appointment of members to the Tribunal. To date FIA is not aware of establishment of the Tax Court.

Applications for review made to the Tax Tribunal are piling up and leaves serious concerns to the dispute resolution process. Additional resources and funding should be allocated for Tax Tribunal and Tax Court.

3. TAX LAWS AND ADMINISTRATION

3.1 Section 11(a) Income Tax Act

Recommendation:

- Review and clarify the application of section 11(a) of the ITA, particularly in view of the Capital Gains Tax Decree and as it relates to profits from the sale of assets held as investments.

It is with alarming frequency that FRCA invokes section 11(a) of the Income Tax Act to tax all profits from the sale of all assets including assets that have clearly been held as investments.

Examples of these include sale of real properties by taxpayers who own more than one property or sale of shares that have clearly been held as investments.

With the introduction of Capital Gains Tax, the application and the scope of section 11(a) needs to be reviewed and clarified.

3.2 Head Office Expenses – Limit of 3% on Turnover

Recommendation:

- Remove 3% limit.
- Introduce specific transfer pricing rules in respect to head office management fees and head office expenses. This is to ensure the 3% limit is not misused, and at the same time to allow development of service sector where 3% limit is considered to be extremely low.

The provision introduced in the Income Tax Act with effect from 1 January 2008 in relation to the 5 percent limit on deductibility of head office expenses which was later reduced to only 3 percent with effect from 1 January 2010 should be repealed with appropriate transfer pricing rules introduced to deal with such issues.

Our observations in relation to the above provision are:

- 1) This measure is contrary to internationally accepted established practices on transfer pricing and should be repealed with appropriate transfer pricing rules introduced to deal with such issues.
- 2) The provision is not logical since the income does not directly determine the head office charges and goes against normal income tax principles.
- 3) Where an entity wholly and exclusively incurs genuine and appropriate revenue expenditure to derive assessable income, such expenses should be allowed as a tax deduction. This provision may severely and unfairly restrict the operations of a foreign company particularly where the basic elements to carry on such a business are not available in Fiji.

3.3 Withholding Tax

Recommendation:

- The withholding tax rules should be changed to be consistent with the overall provisions of the Fiji income Tax Act.
- Clear rules to be put in place on applicability of withholding tax on pure cost allocations.
- Withholding tax provisions in relation to tax treaty countries should be applied consistently and in the spirit of the relevant double tax agreement.

Service charges

The current withholding tax rules create a distortion and impose inequitable level of taxes on foreign and local service charges especially where the profit margin is very low. For example, if the profit margin on the foreign service charges is 7 percent it is inequitable to impose withholding tax at the rate of 15 percent on the gross foreign service charges.

To address the above 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.

Cost allocations

Income tax and withholding tax rests on the premise that there is a profit element.

No distinction is being made by FRCA in relation to service charges and pure cost reimbursements or allocations, and withholding tax is being charges across the board.

Surely it was never the intention to charge withholding tax on cost allocations where there is no profit element. Clear guidelines need to be put in place to avoid such treatment and allow businesses to function without the added cost of withholding tax.

3.4 Dividend Regulations and Tax on Dividends

Recommendation:

- Clarify the position with respect to the calculation of qualifying dividends in respect to pre-2001 tax payments.

Pre-2001 tax payments were recognized for calculation of qualifying dividends for last 10 years, and accordingly, change in interpretation in absence of valid strong reasons is unjustified.

The Income Tax (Dividend) Regulations was introduced effective January 2001. Since then, pre-2001 tax payments were recognized for the purpose of calculation of qualifying dividends as and when dividends were declared from retained earnings as at 1 January 2001. This practice was followed by FRCA until 2010. The effect of the practice was also in line with the Government policy of taxing corporate profits once, either at corporate level or at shareholder level.

In spite of the policy and practice followed and accepted by FRCA for almost 10 years, and in spite of its own training materials confirming the need to take into account pre-2001 tax payments for calculation of dividends paid out from retained earnings as at 1 January 2011, FRCA is now proposing to change its policy and practice. This creates significant uncertainty and inconsistencies. Such practice is unfair and unjust towards investors who have reinvested its earnings and continue to invest in Fiji.

3.5 Simplified Tax System for Micro Enterprises and SMEs

Recommendation:

- Introduce Simplified Tax System for all micro enterprises and SMEs as a matter of priority.
- Undertake a review of Income Tax Act, VAT Decree and other legislation to identify areas and ways to reduce compliance costs, to reduce tax administration costs and make taxation simple.

The current tax system is considered to be complex and costly for micro enterprises and SMEs. Government has recognized that micro enterprises and SMEs are fundamental to Fiji's economy and thus must be nourished and supported.

Even developed countries like Australia have simplified tax systems (STS) for SMEs. STS is a package of measures aimed at reducing the compliance costs faced by eligible small businesses. It provides an alternative method of determining taxable income with no significant impact on the collection of tax revenue.

STS will reduce compliance cost significantly thus allowing small businesses and entrepreneurs to invest their time and resources for business, business development and creating more economic activities.

On the other hand, STS will also reduce tax administration costs significantly thereby allowing FRCA to divert its limited resources towards priority areas including improving compliance.

FIA has identified a number of areas for simplification of tax administration and tax compliance, which include:

- Increase in Provisional Tax Payment threshold for individual taxpayers
- Extended filing date for filing of tax return (instead of 3 months)
- Simplification of 15% Contractors Provisional Tax Payments
- Increase threshold for write-off of Capital Nature Expenses
- Information required with tax returns
- Issue clear policy statements
- Introduce profiling of tax payers
- Issue Blanket Tax Clearances for major projects and repetitive payments where the FRCA does not see any threats to revenue collection

FIA has identified a number of areas for simplification of VAT administration, reducing compliance costs and improving VAT collection which includes:

- Increase in threshold for cash basis of accounting for VAT
- Expand eligibility for Annual and three monthly VAT Returns

On this matter, two consultative meetings were held between FIA and FRCA in late 2005 to determine the initial framework for a simplified tax system. During these meetings, based on the data collected by FRCA, it was identified and recognized that this system will provide significant benefits to taxpayers as well as FRCA in reducing compliance costs and improving tax compliance. However, we note that very little progress has been made to introduce this system.

We are of the view that the Australian STS can be used as a reference and simplified further to suit Fiji's environment and requirements. Such a system may contain provisions such as:

- Cash basis of accounting;
- Availability of deduction for all purchases, including stock on hand;
- Availability of deductions for pre-payment of expenses; and
- Pooling of assets and generous depreciation.

4. REVENUE GENERATING INITIATIVES

4.1 Transfer Pricing Rules

Recommendation:

- Introduce formal transfer pricing rules for goods and services in line with internationally accepted practices.

Currently, there are no proper transfer pricing rules for goods and services. This results in inconsistency in practices and loss of revenue in a number of circumstances.

4.2 Tax Evasion and the Hidden Economy

Recommendation:

- Review and implement initiatives taken by other countries for reducing the level of tax evasion and the hidden economy.

The size of hidden economy in most of OECD countries is estimated to be in the range of 10% to 15%.

More recently, tax administrators have been seeking to encourage compliance by simplifying the tax system. This involves a range of initiatives including:

- Reducing compliance costs for businesses, especially small businesses.
- The re-writing of the Income Tax Act to improve the ability of taxpayers to determine, calculate and satisfy their income tax obligations.
- Introduction of binding ruling system.
- Introduction of self-assessment systems.
- Promoting taxpayer awareness, community awareness.
- Access to Inland Revenue offices or officers in remote areas.
- Improving staff skills and capabilities.
- Improving relationship with taxpayers.
- Improving relationship with tax practitioners.
- Recognising rights of taxpayers and respecting their rights and providing facilitation and resources to protect their rights.

We acknowledge the process for re-writing of Income Tax Laws has commenced and FIA has been invited to provide views and comments on the draft Income Tax Decree. FIA will undertake necessary reviews and will make appropriate submission to FRCA with constructive comments and suggestions.

4.3 Contractors Provisional Tax

Recommendation:

- 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.
- The new system may be based on “tax invoice” criteria. Under this system, 15% provisional tax should be deducted in the event the supplier of goods or services do not provide a “tax invoice”

Persons making contractual payments are required to deduct 15% Contractors Provisional Tax unless the supplier of services holds a current valid certificate of exemption issued by FRCA.

In relation to the above:

- FRCA's current practices and procedures for the issue of certificates of exemption is considered to be inefficient. It has been observed that generally certificates of exemption are not issued on a timely basis due to multiple internal problems such as the lack of internal co-ordination, incorrect records, non-availability of staff, misplaced files, errors, non-attendance to correspondence, etc. It is the taxpayers and their business operations that are affected by the above inefficiencies. Further, this also has a detrimental impact on businesses and investment activities.
- In addition, there are no effective procedures in existence to ensure that the provisional taxes deducted by the payer are remitted to FRCA on a timely basis, and subsequently credited to the tax account of the contractor.
- Currently, provisional tax deducted and remitted to FRCA is not credited to the tax account of the contractors until the following year when the tax returns are filed. There must be a system to credit the contractors account within a month of deduction.
- Under the current system, the contractors may be forced to pay advance taxes or individual provisional income taxes in addition to 15% contractors' provisional tax. This will certainly have adverse impact on the viability of businesses.

Currently, well established businesses are facing extreme difficulties obtaining or renewing certificates of exemption. For small enterprises and service providers, the current system is extremely costly, complex and unsuitable. In our view, with all good intentions, the current system and procedures constrains the development of small enterprises. It may have and may be contributing to the collapse of a number of businesses.

5. TARGETED INDUSTRIES AND TAX INCENTIVES AND OTHER SUPPORT

We welcome Governments initiatives and support for development and growth of number of sectors, and make the following submissions for the 2011 budget:

5.1 Exports- Tax Incentives

Recommendation:

- 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 time being.

- Export incentives should be available to all exporters of goods and services to the maximum extent. FIA 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.

The Reserve Bank of Fiji has been continuously conveying a very clear message that export growth is crucial for the economy to achieve sustained higher growth. For a number of products manufactured in Fiji, Fiji market has reached to a saturation point, and growth will come only from exports.

Export incentives have been very effective in promoting export and establishing a manufacturing base in Fiji for a number of products.

As it stands, the 50% export income deduction will be reduced progressively from 2012 and completely phased out by 2016.

There are countries offering tax holidays for export of goods and services, and Fiji should offer tax concessions to the maximum extent. Increased export activities will bring business to Fiji from abroad, create new employment and increased economic activities through the multiplier effect, and this will result in increased tax revenue for Government.

5.2 Agriculture Sector – Tax Incentives and Other Support

Recommendations:

- Introduce bold and effective incentive package for agriculture sector.
- Grant 100% exemption for any 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 to support rural community and farmers and creating opportunities through diversifying agriculture, fisheries and forestry ventures.

The development of the agriculture sector and SMEs is very important for Fiji and particularly for rural development. These sectors also provide significant opportunities for small enterprises and create employment opportunities in rural areas. Furthermore, value added to the economy is quite significant as there are minimal inputs required from off-shore.

It is also evident that most of the countries including the developed countries such as USA, France and Australia have been providing assistance and incentives in one form or other to their agriculture sector.

The Government should seriously consider providing income from agriculture 100% tax free. There are justifications for such bold incentive measures with the objective of utilizing land and water resources for productive purpose. The growth of this sector will have significant positive impact by way of employment, rural development, import substitution, exports and others.

Furthermore, Government should actively work towards increasing production by introducing incentives:

- The supply of all agricultural products should be zero-rated for VAT purposes.
- Duty concessions should be provided on the importation of capital equipment for agricultural purposes.

Such incentives will promote our agricultural activities and reduce our reliance on imported food supplies in the medium to long term.

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

Recommendation:

- Developer profits exemption, which was repealed in 2007, should be restored in the 11th Schedule of the Income Tax Act.

SLIP concessions and in particular developer profits exemption had proved to be effective in promoting investments in major hotels and resorts.

However, developer profits exemption under the Hotel Aid Act was repealed in 2007. This should be reintroduced.

It has been widely acknowledged that tourism is viable industry at this stage which has significant opportunities. Further capacity in hotel industry is necessary to support growth in tourism.

Furthermore, the tourism industry provides significant contributions to tax revenue, and for running of Government. The tax revenue comprises:

- VAT from supply of goods and services;
- PAYE taxes from employees;
- Import duties;
- Income tax on business profits;
- Hotel turnover tax; and
- Other taxes such as withholding taxes; and
- Land sales tax, etc.

In addition, the industry's contribution to the economy is significant including providing employment opportunities, foreign exchange and support to other sectors and industries.

We note that prior to the introduction of developer profits exemption, there were very few projects which sought to use SLIP despite the 20 year tax holiday. After developer profits exemption was introduced the number of tourism projects increased substantially.

The whole reason behind exempting developer profits was that large development projects have to spend a large portion of their budget on infrastructure development which should really be Government's responsibility. The exemption of developer profits allow the developers to earn a fair return on their investment and to recoup these infrastructure costs which should ordinarily be borne by Government.

5.4 Fishing

Recommendation:

- Implement measures to encourage processing and value added activities within Fiji.
- Establish rules to preserve depleting natural resource of seafood.
- Explore opportunities for fish and prawn farming which for a start can provide a consistent supply to the tourism industry and can later be exported.

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.

The granting of fishing licenses to overseas vessels needs to be more closely monitored and re-evaluated in terms of the contribution that they make to Fiji's economy in general. The rules established to regulate the size of fish, crabs and other seafood being caught should be vigorously policed and implemented.

5.5 Garment Industry

Recommendation:

- Identify and implement effective measures to support and achieve further growth in the 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.

6. STRUCTURAL REFORMS

The FIA supports the structural reforms which are necessary to achieve the desired levels of economic growth. Government must continue to implement these reforms.

6.1 Public Sector Reform

Recommendation:

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

In the Public Service Reform area, the FIA reiterates the need for the following:

- As suggested in previous years, one of the ways to enforce accountability in Public Service is to clearly publicise the timeframe for delivery of services and outcomes expected of the respective Government departments. This would allow the customer or the public to be aware of and demand the expected delivery of service. We believe this is critical to the enforcement of accountability.
- Ensuring that recruitment policies and appointments within the Public Service are aimed at having the “right people in the right position”.
- Provide Government services efficiently and effectively. Treat the public as customers.
- Outsourcing of Government services, particularly those which Government has failed to deliver efficiently or where Government resources are inadequate to effectively manage and deliver such services.

6.2 Government Services

Recommendation:

- 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.

The Government must implement strategies and measures to deliver Government services efficiently and effectively. This can be achieved by embracing E-Governance.

The streamlining of processes to be more responsive to the needs of the customers is critical.

The overhaul of the Registrar of Companies and Titles Office is long overdue, and is very critical. Significant improvements to the delivery of services and computerization of company records are integral to Government Investment Approval Process initiative.

7. FISCAL POLICY

7.1 Government Debt and Expenditure Policy

Recommendation:

- Fiscal discipline should be maintained including restricting Government debt and the budget deficit to sustainable levels.
- Government should reduce overall expenditure and debt while increasing the allocation for capital projects and reducing amounts for operating expenditure.

We commend Government's plans and objective to secure fiscal discipline and improve government finances.

Whilst it is critical that the short term strategy and focus should be for the recovery of the economy and to provide the required stimulus, we support the plans to reduce Government debt and level of budget deficit. The level of government debt and budget deficit should be restricted to sustainable levels. The generally accepted sustainable levels of Government debt and budget deficit are in the vicinity of 45 percent and 3.5 percent of GDP respectively.

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 plans to reduce operating expenditure reducing the escalating costs of public service wages and salary which makes up approximately 50 percent of Governments operating budget.

Government should freeze or reduce its level of operating expenditure, and increase the level of capital expenditure. Increase in revenue must be diverted towards capital projects instead of operating expenditure.

7.2 Health Care and Education

Recommendation:

- Improve facilities and service delivery at hospitals and health centers.
- Increase capital expenditure allocation for education, and to improve facilities at schools.
- Introduce strategies and measures to develop a pool of qualified, skilled and competent teachers.

There is a need for further improvements to hospitals and health centers 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 centers.

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.

Improve the teacher to students' ratio to improve the education standards. Introduction of caps on number of students per class may also be appropriately considered as part of improving this overall ratio.

7.3 Judiciary

Recommendation:

- Judiciary system should be further enhanced with additional resources to make it more efficient and effective, and thereby increase the level of investor's confidence and encourage investments.

8. CONCLUSION

Government has announced a number of positive policies and initiatives centered on building a better Fiji.

It is important that Government put in place effective structure and processes to implement these policies and initiatives and expeditiously act on the same including:

- Strengthening good governance and modernizing existing administrative systems;
- Reform of the public sector to reduce its size and cost while improving efficiency and effectiveness; and
- Maintaining and improving infrastructure, including roads, water supply, power supply, medical and educational facilities.

Establishing clear and transparent policies after proper consultation with stakeholders and announcing these as part of the budget, allows stakeholders to plan accordingly.

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 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.