



FIJI INSTITUTE OF ACCOUNTANTS

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

For the 2013 National Budget

September 2012

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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 2012 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 welcomes the opportunity to make a submission to the Ministry of Finance on the 2013 National Budget.

At a meeting with private sector organizations on 25th July 2012, the Ministry of Finance articulated its 2013 Budget Strategy Framework, under the following headings:

- 2013 Budget Strategy
 - *aligned to macroeconomic targets in the People's Charter for Change, Peace and Progress and the Roadmap for Democracy and Sustainable Socio Economic Development; and*
 - *focuses on fostering sustainable growth and achieving fiscal sustainability over the medium term.*
- Government's medium term policy targets
 - *Inflation to be kept at around 3 percent;*
 - *Maintaining adequate level of foreign reserves;*
 - *Investment to increase to 25 percent;*
 - *Government debt stock to reduce to less than 45 percent of GDP;*
 - *Government deficit to be lower than 3 percent of GDP; and*
 - *Capital to operating expenditures to target 30:70.*
- Immediate and medium term challenges
 - *Potential external shocks :Euro debt crisis spillover*
 - *World commodity price shocks (food and oil prices)*
 - *Identifying new sources of revenue without overtaxing the economy*
 - *Channeling expenditure to priority sectors to foster growth, maintaining control over wages and salaries, and recurrent outlays*
 - *Establishing Contingency Fund for annual natural disasters*
 - *Raising economic growth and private sector investment*
 - *Accelerating structural reforms*
 - *Sustaining Debt by containing fiscal balance within target of 2 percent of GDP in 2013-2014*
- 2013 Revenue policy focus
 - *Revenue: policies will be framed to promote growth and investment such as:*
 - *reviewing existing Government incentives and concessions*
 - *assisting export development and value adding*
 - *encouraging small and medium enterprises*
 - *offsetting revenue measures to mitigate revenue losses from recent budget measures and trade liberalization*

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- *review import duty and tariff rates to deter sin goods*
- 2013 Expenditure policy focus.
 - *Expenditure allocations will follow the Sectoral and Government Agency Expenditure Envelope method*
 - *Additional expenditure pressures are to be accommodated through reprioritization and identified savings within*
 - *Reduction of operating budget (particularly personal emoluments)*
 - *Strict adherence to Capital Operating Mix target*
 - *Monitoring of reformed agencies to determine their viability*

Past submissions of the Institute have included a broad range of areas for consideration by Government in its formulation of the forthcoming year's national budget. In 2012, the Institute made a conscious decision to narrow the scope of its submission to key areas which it considers criteria, in light of Government's 2013 Budget Strategy Framework and the Institute'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 and sustainable 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 a 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 2013 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 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 in collecting the proper amount of tax revenue and not against them.

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.

- Incentives and support to targeted industries which has potential for creating further employment, exports, economic activities together with meeting socio 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. For this, 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.

A number of areas have been covered in past years' submissions by the Institute. 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 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.

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

"All roads lead to Rome" – in the case of business *"All roads lead to the tax office"*.

2.1 Consistency of Policy, Practices and Interpretation

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

The Institute continues to make the following points in its submissions to Government:

- FRCA must apply its policies and interpretations consistently.

FIA has noted that FRCA has changed 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, particularly where the matter is one of principle and the quantum of tax is not significant.

Such practices only give signals of uncertainty to 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.
- In accordance with its powers under the Tax Administration Decree 2010 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

FRCA should understand and not under-estimate its role in promoting investment and economic activities. The Institute 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 forum to consult business 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.

2.3 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 tax payers 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) and also bearing in mind that funds are not cleared much early by receipt of tax payments on a Saturday, rather than a Monday.

Other measures that can be reviewed include:

- Further profiling of tax payers 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 tax payers 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 (e.g. vetting of documentation for tax clearances etc), so that the privilege of being a Gold Card member brings with it special efficient services but also has certain responsibilities that require the tax payer 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.

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

The improvement in timing of VAT and income tax refunds is acknowledged. As a second stage to this, and to encourage FRCA to continue to improve with its refund practice, interest should be paid for delay in issue of refunds as allowed under the respective legislation.

2.5 Tax Agents Portal

We note that work is currently being 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.

2.6 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 Institute'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, deemed dividend provisions, imposed under Section 8, at the time of sale of shares (or "of a company") 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 Fiji income Tax Act and 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.

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 particularly, in respect to pre-2001 tax payments 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.

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.

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 does not provide a “tax invoice”.

Alternatively, if a change in system is not considered, a reduction in provisional tax to say 8% should 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.

4.3 Income Tax Rates and Social Responsibility Levy

In the 2012 Budget Government reduced tax rates (corporate and top individual marginal rates) significantly (from 28% and 31% respectively to 20%). Along with this reduction in tax rates, Government introduced a Social Responsibility Levy (SRL) for high income individuals and all non-residents individuals. SRL rates range from 23% to 29%, for incomes above \$270,000 but starting from \$1 once income exceeds that threshold. Non-resident rates start at 19% from the first dollar of chargeable income.

SRL in its current form is inequitable and a deterrent to investment and business as it applies only to individuals so all non-corporate forms of business (including professions such as doctors, lawyers and accountants) are penalized for having a structure other than a company. Many of Fiji’s strata titled tourism properties, such as Denarau Villas, Hilton Villas, The Terraces and Radisson Resort, are owned by individual foreign investor whose effective tax rate is a minimum of 39% (20% income tax and 19% SRL) – this is effectively an increase in tax rather than a decrease in tax as suggested by the Budget announcement.

The Institute 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.

It is suggested that SRL be levied as a progressive tax at a flat rate 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.

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.
- 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 to support rural community and farmers and creating opportunities through diversifying agriculture, fisheries and forestry ventures.

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. 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.

5.3 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.

Tourism incentives should be continued and clarity brought into existing legislation in respect 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.

Licensing should be controlled and monitored.

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.

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

Government's 2013 Budget Strategy Framework contains commendable initiatives in the areas of Government Debt and Expenditure Policies.

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

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

An efficient and independent judiciary is one of the critical factors to attract investments.

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

CONCLUSION

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

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.