

EXTRAORDINARY



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GOVERNMENT OF FIJI

INCOME TAX (AMENDMENT) (NO. 5) DECREE 2012  
(DECREE NO. 33 OF 2012)

IN exercise of the powers vested in me as the President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority of Fiji Decree 2009, I hereby make the following Decree—

TO AMEND THE INCOME TAX ACT (CAP. 201)

*Short title and commencement*

- 1.—(1) This Decree may be cited as the Income Tax (Amendment) (No. 5) Decree 2012.
- (2) Section 2 of this Decree shall be deemed to have come into force on the 27th January 2012.
- (3) Sections 3 and 4 of this Decree shall be deemed to have come into force on 1st January 2012.

*Section 21 amended*

2. Section 21(1) of the Income Tax Act (Cap. 201) (“the Act”) is amended in paragraph (zp) by deleting “31st March 2012” and substituting “31st May 2012”.

*Section 22 amended*

3. Section 22 of the Act is amended—

(a) in subsection (1) by—

- (i) deleting paragraph (v) in subsection (b); and
- (ii) inserting a new paragraph after paragraph (b)—

“(c) to the extent to which it is prohibited under sub-paragraph (a), in the case of an allowance or any other relief or deduction available under the Eleventh Schedule, be carried forward to be set off against what would otherwise have been the taxpayer’s total income for the next 8 years in succession provided that losses carried forward can only be set off against the total income of that hotel business or the total income from that hotel premises.

(b) by deleting subsection (5) and inserting the following new subsections after subsection (4)—

(5) Notwithstanding anything contained in subsections (6) and (7), any loss incurred in any trade, business, profession or vocation with effect from 1st January 2012 shall only be carried forward for a period of up to 4 years in succession.

(6) Any loss incurred in any trade, business, profession or vocation prior to 1st January, 2012 shall only be carried forward for a period of up to 4 years in succession, provided that the total period, including any period prior to or after 1st January 2012, shall not exceed 4 years in succession.

(7) Notwithstanding anything contained in this section, any taxpayer who incurred losses in any trade, business, profession or vocation and has carried forward such losses for more than 4 years in succession prior to 1st January 2012, shall cease to continue carrying forward losses from 1st January 2012.”

*Eleventh Schedule amended*

## 4. Eleventh Schedule of the Act is amended by—

## (a) inserting a new paragraph after paragraph 7—

*“ Procedure in case of loss*

(8) If a loss is incurred in connection with a hotel in respect of which investment allowance has been approved under paragraph 6, any loss incurred in the operation of the hotel may be carried forward and set off against the total income of that hotel business or the total income from that hotel premises for the next 8 years in succession, subject to the period in section 22 of the Act.”

## (b) inserting a new paragraph after paragraph 18—

*“Carry forward losses*

(19) Subject to this Act or this Schedule, any loss incurred by the company in the operation of the hotel may be carried forward and set off against the total income of that hotel business or the total income from that hotel premises for the next 8 years in succession.”

GIVEN under my hand this 26th day of April 2012.

EPELI NAILATIKAU  
President of the Republic of Fiji