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GOVERNMENT OF FIJI

INCOME TAX (AMENDMENT) DECREE 2012
 (DECREE NO. 6 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) Decree 2012.
- (2) This Decree shall be deemed to have come into force on the tax years commencing on 1st January, 2012.
- (3) The Income Tax Act (Cap. 201) shall be referred to as the “Act”.

Section 7 amended

2. Section 7 of the Act is amended in paragraph (a) by deleting “\$15,000” and substituting “\$15,600”, wherever it appears.

PART III amended

3. The Act is amended in Part III by inserting—
 - (a) “AND LEVIES” after “IMPOSITION OF TAX” in the heading; and
 - (b) the following sections after section 7D—

“Imposition of Social Responsibility Levy

7E.—(1) Subject to this Act, a levy to be known as the “Social Responsibility Levy” is imposed for a tax year at the rate specified in Table A8 on a resident person and Table B6 Fourth Schedule on a non-resident person, other than a company, who is liable for Income Tax.

(2) The Social Responsibility Levy payable under subsection (1) for a tax year is computed by applying the rate specified in—

- (a) Table A8 of the Fourth Schedule to the chargeable income of a resident person; or
- (b) Table B6 of the Fourth Schedule to the chargeable income of a non-resident person.

(3) The individual and the employer shall be liable for the levy.

(4) The individual and the employer shall lodge the return in the approved form and pay the levy on or before the last day of each month following the month in which the levy was due.”

Imposition of Telecommunications Levy

7F.—(1) A levy to be known as the “Telecommunications Levy” at a rate of 1% shall be imposed on all voice calls transmitted by any telecommunications services.

(2) The person liable for the levy shall be the user of the telecommunications service to whom the charges are incurred.

(3) The licensed telecommunications service provider shall on or before 15 days after the last day of each month, lodge a return in the approved form and pay the levy due.

Imposition of Credit Card Levy

7G.—(1) A levy to be known as the “Credit Card Levy” at a rate of 2% imposed on all outstanding monthly balance on bank credit cards including interest and other bank charges .

(2) The person liable for the levy under subsection (1) shall be the owner of the bank credit card.

(3) The bank shall, on or before 15 days after the last day of each month, lodge a return in the approved form and pay the levy due.

Imposition of Third Party Insurance Levy

7H.—(1) Subject to subsection (2), a levy to be known as the “Third Party Insurance Levy” shall be charged at the rate of 20% of the total third party insurance premium collected in a month.

(2) The person liable for the levy shall be the insurance company.

(3) The insurance company shall on or before 15 days after the last day of each month, lodge a return in the approved form and pay the levy due. ”

Section 20 amended

4. Section 20 of the Act is amended in subsection (1) (b) by—

- (a) deleting “or to the Fiji National Provident Fund”;
- (b) inserting “(i)” after “(b)”; and
- (c) inserting the following subparagraph after subparagraph (i)—

“(ii) half of the employers’ statutory contribution paid by the employer to the Fiji National Provident Fund in respect of an employee shall be allowed as an expense incurred in the year in which it was paid.”

Section 21 amended

5. Section 21 of the Act is amended in subsection (1)—

- (i) paragraph (b) by—
 - (a) deleting “or to the Fiji National Provident Fund”;
 - (b) renumbering and inserting “(i)” after “(b)”; and
 - (c) inserting the following subparagraph after subparagraph (i)—

“(ii) half of the employers’ statutory contribution paid by the employer to the Fiji National Provident Fund in respect of an employee, shall be allowed as an expense incurred in the year in which it was paid.”;

- (ii) by deleting paragraph (zf); and
- (iii) by inserting the following paragraph after paragraph (zn)—

“(zo) forty percent of capital expenditure incurred by any existing businesses located in Vanua Levu, excluding those businesses under the Twelfth Schedule;

“capital expenditure” means expenditure of an amount, or total, not less than \$50,000 excluding cost of labour incurred for the purpose of extension or renovation of buildings located in Vanua Levu.”

Section 22 amended

6. Section 22 of the Act is amended—

- (a) by deleting “eight years (8 years)” and substituting “four (4 years)”, wherever it appears;
- (b) in subsection (1)—
 - (i) by deleting “Hotels Aid Act” and substituting “Eleventh Schedule”, wherever it appears; and
 - (ii) paragraph (b) by deleting subparagraphs (ii) and (iii);
- (c) in subsection (2) (b) by deleting “2001” and substituting “2012”; and
- (d) by deleting subsection (5) and substituting the following—

“(5) Notwithstanding the provisions of this Act, all losses incurred in any trade, business, profession or vocation carried on by any taxpayer prior to 1st January, 2012 shall cease to continue from 1st January, 2012.”

Section 34 amended

7. Section 34 of the Act is deleted and substituted by the following—

“Transfer Pricing

34.—(1) Subject to subsection (2), the Chief Executive Officer may, in respect of any transaction between persons who are associates, distribute, apportion, or allocate income, gain, deductions, or tax credits between the persons as is necessary to reflect the income that the persons would have realised in an arm’s length transaction.

(2) If a party to a transaction between associates is located in and subject to tax in Fiji, and another party to the transaction is located outside Fiji, any distribution, apportionment, or allocation of income, gain, deductions, or tax credits under subsection (1) must be made in accordance with this Act.

(3) The allocation of income and deductions to a permanent establishment—

- (a) in Fiji of a non-resident person; or
- (b) outside Fiji of a resident person,

must be made in accordance with this Act.

(4) In this section, “arm’s length transaction” means a transaction between persons who are not associates dealing at arm’s length with each other.”

Section 91 amended

8. Section 91 of the Act is amended by—

- (a) deleting subsection (1) and substituting the following subsection—

“(1) Every company shall pay to the Commissioner advance payments on account of tax to be assessed in accordance with the provisions of section 55 in respect of the income of any fiscal year and be payable in installments in the following manner—

- (a) the last day of the sixth month pay thirty percent (30%) of the estimated amount of tax payable;
- (b) the last day of ninth month pay another thirty percent (30%) of the estimated amount of tax payable;
- (c) the last day of the fiscal year pay another thirty percent (30%) of the estimated amount of tax payable; and
- (d) the last day of the second month after the fiscal year pay another ten percent (10%) of the estimated amount of tax payable.

(b) deleting subsection (2) and substituting the following subsection—

“(2) Notwithstanding subsection (1), when an assessment is issued prior to an advance company tax installment becoming due, the amount of any tax liability will need to be paid by the date specified in the notice of assessment issued under section 55.”

(c) by inserting the following subsection after subsection (3)—

“(4) For the income year 2011, the advance payment of tax by every company to the Commissioner may continue under the percentage and installment payment of tax applied before 1st January, 2012.”

Section 92 amended

9. Section 92 of the Act is amended by inserting the following subsections after subsection (3)—

“(4)—(a) Notwithstanding this section, as at 1st January, 2012, the following additional tax shall be payable by the companies in the following manner—

(i) Subject to section 91(1) (c), where the Commissioner accepts from any company an estimate income as the basis of payment of advance tax and that estimate proves to be less than 90% of the actual income derived during the income year, that company shall be liable to pay the Commissioner an additional tax equal to 40% of the difference between the amount of tax—

(a) calculated on 90% of the company’s actual income for the year; and

(b) paid by the company as at the last day of the fiscal year.

(ii) Subject to section 91(1) (d), where the Commissioner accepts from any company an estimate of income as the basis of payment of advance tax and that estimate proves to be less than 100% of the actual income derived during the income year, that company shall be liable to pay the Commissioner an additional tax equal to 40% of the difference between the amount of tax—

(a) calculated on 100% of the company’s actual income for the year; and

(b) paid by the company.”

Fourth Schedule amended

10. The Fourth Schedule of the Act is amended—

(i) in Table A under the heading of “A. RESIDENT INDIVIDUALS AND RESIDENT INDIVIDUAL TRUSTEES” by inserting the following table after “Table A7– Year of Assessment 2010 and every subsequent year”—

“Table A8 – Year of Assessment 2012 and every subsequent year—

Chargeable Income (\$)	Tax Payable (\$)	Social Responsibility Levy
0 – 15,600	Nil	
15,601 – 22,000	7% of excess over \$15,600	
22,001– 50,000	448 +18% of excess over \$22,000	
50,001 – 270,000	5488 +20% of excess over \$50,000	
270,001 – 300,000	49, 488 + 20% of excess over \$270,000	23%
300,001 – 350,000	55, 487 +20% of excess over \$300,000	24%
350,001 – 400,000	\$65, 487 + 20% of excess over \$350,000	25%
400,001 – 450,000	\$75, 487 + 20% of excess over \$400,000	26%
450,001 – 500,000	\$85, 487+ 20% of excess over \$450,000	27%
500, 001 – 1,000,000	\$95, 487 + 20% of excess over \$500,000	28%
1,000,001 +	\$195, 486 + 20% of excess over \$1,000,000	29%

- (ii) in Table B under the heading of “B. NON-RESIDENT INDIVIDUALS AND NON-RESIDENT INDIVIDUAL TRUSTEES” by inserting the following table after “Table B5 – Year of Assessment 2008 and every subsequent year”

“Table B6 – Year of Assessment 2012 and every subsequent year—

Chargeable Income (\$)	Tax Payable (\$)	Social Responsibility Levy
0 – 15,600	20% of excess of \$0	19%
15,601 – 22,000	3,120 + 20% of excess over \$15,600	20%
22,001 – 50,000	4,400 + 20% of excess over \$22,000	21%
50,001 – 270,000	10,000 + 20% of excess over \$50,000	22%
270,001 – 300,000	53,999 + 20% of excess over \$270,000	23%
300,001 – 350,000	59,999 + 20% of excess over \$300,000	24%
350,001 – 400,000	69,999 + 20% of excess over \$350,000	25%
400,001 – 450,000	79,999 + 20% of excess over \$400,000	26%
450,001 – 500,000	89,999 + 20% of excess over \$450,000	27%
500,001 – 1,000,000	99,999 + 20% of excess over \$500,000	28%
1,000,001 +	199,998 + 20% of excess over \$1,000,000	29%

- (iii) by inserting the following table after “Table C6”—

“Table C7 – Year of assessment 2012 and every subsequent year

COMPANIES (INCLUDING COMPANIES ACTING AS TRUSTEES)

- (a) Every company, other than companies to which paragraph (b) or (c) applies20%
- (b) Non resident shipping companies2%
- (c) Any company listed with the South Pacific Stock Exchange is eligible for this tax rate20%”

Eighth Schedule amended

11. The Eighth Schedule of the Act is amended by repealing paragraph 5.

Eleventh Schedule amended

12. Part 3 of the Eleventh Schedule of the Act is amended by repealing paragraphs 8 and 19.

GIVEN under my hand this 10th day of January 2012.

EPELI NAILATIKAU
President of the Republic of Fiji