

**EXTRAORDINARY  
GOVERNMENT OF FIJI GAZETTE SUPPLEMENT**

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No. 36

SATURDAY, 31st JULY

2021

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[LEGAL NOTICE NO. 61]

INCOME TAX ACT 2015

**Income Tax (Recycling Business Investment  
Incentives) Regulations 2021**

IN exercise of the powers conferred on me by section 142 of the Income Tax Act 2015, I hereby make these Regulations—

PART 1—PRELIMINARY

*Short title and commencement*

1.—(1) These Regulations may be cited as the Income Tax (Recycling Business Investment Incentives) Regulations 2021.

(2) These Regulations come into force on 1 August 2021.

*Interpretation*

2.—(1) In these Regulations, unless the context otherwise requires—

“capital goods” means raw materials, capital equipment, plant, machinery, spare parts and any other goods employed in the production of other goods but does not include furniture or motor vehicles;

- “company” means a company registered under the Companies Act 2015;
- “final approval” means the approval granted by the Minister under regulation 8;
- “Minister” means the Minister responsible for finance;
- “provisional approval” means the approval granted by the Minister under regulation 4;
- “recycling business investment incentive” means the duty exemption under regulation 5 and the exemption of tax on income under regulation 9 for a recycling business established on or after 1 August 2021;
- “project” means a project on or after 1 August 2021 for the establishment of a new recycling business building, factory or plant that meets the minimum investment threshold under regulation 9 including the construction, renovation or refurbishment of a building, factory or plant;
- “recycled product” means a product, material or substance created through the recycling process;
- “recycling process” means any activity the principal result of which is waste serving a useful purpose, whether for the original or other purposes, by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil a particular function;
- “recycling” means any recycling process by which waste materials are reprocessed into a recycled product; and
- “waste” has the meaning given to that term under section 2 of the Environment Management Act 2005.

## PART 2—RECYCLING BUSINESS INVESTMENT INCENTIVE

### *Application for provisional approval*

3.—(1) A company (“applicant”) may apply in writing to the Minister for provisional approval of the proposed project.

(2) The application must set out and be supported by the following—

- (a) the name and registered office of the company;
- (b) the names of all directors and shareholders of the company, including their percentage of ownership of shares in the company;
- (c) a current statement of all assets and liabilities of the company;
- (d) the details of the recycled product and the recycling process to be undertaken to create the recycled product;
- (e) the location and description of the proposed building, plant or factory site;
- (f) a sketch plan showing the project;
- (g) the estimated cost of the project;
- (h) if the project is to be carried out in stages, a description and the estimated cost, of each stage and details of the proposed timetable;

- (i) evidence of the company's ability to undertake the project;
- (j) details of the proposed method of financing the project;
- (k) estimates of the projected income from the project;
- (l) a letter from the Department of Environment confirming—
  - (i) that the screening process for an Environmental Impact Assessment has been undertaken and there is no need for an Environmental Impact Assessment to undertake the project; or
  - (ii) that an Environmental Impact Assessment has been undertaken and the project has been approved by the Department of Environment; and
- (m) any other information the Minister may require.

*Power to approve applications*

4.—(1) The Minister in concurrence with the Minister responsible for environment may—

- (a) reject the application;
- (b) approve the application, with or without any condition; or
- (c) approve part of the application, with or without any condition, and reject other parts of the application.

(2) The Minister must take into account the following matters when determining an application under subregulation (1)—

- (a) the ability of the applicant to undertake the project;
- (b) the assets and liabilities of the applicant;
- (c) the nature and extent of the project;
- (d) the findings of the Environmental Impact Assessment, if applicable;
- (e) the sustainability of the project and the proposed recycling process;
- (f) the potential contribution of the project and the proposed recycling business to the economy;
- (g) whether the recycled product meets an applicable national or international quality standard for such product as may be determined by the Minister in consultation with the Minister responsible for industry and trade; and
- (h) such other matters the Minister may consider relevant to the desirability of the project and the capability of the applicant to complete it.

(3) The decision of the Minister under this regulation is final.

(4) Notwithstanding subregulation (3), an applicant whose application has been rejected, including a partially rejected application, may make a new application or amend and resubmit the original application.

*Effect of provisional approval*

5.—(1) When a provisional approval is granted, all capital goods, imported by or on behalf of the applicant and used in the carrying out of the project, are exempt from all duties payable in respect of their importation under concession code 306 of Schedule 2 to the Customs Tariff Act 1986.

(2) Before capital goods are imported by the applicant, it is a condition of importation that the applicant must first provide proof that such goods cannot be produced locally to the satisfaction of the Minister, who decides whether such goods are to be imported.

(3) Nothing in this regulation applies to any tax payable under the Value Added Tax Act 1991.

*Completion of project*

6.—(1) An applicant that has been granted provisional approval must complete the project within 24 months from the date the provisional approval was granted.

(2) Subject to the other provisions of this regulation, where an applicant has been granted provisional approval and has completed the project, the applicant may apply to the Minister for final approval.

(3) An application under subregulation (2) must be made in writing and be supported by the following—

- (a) copies of invoices and a schedule of expenditure relating to the project;
- (b) an approved plan showing the site, layout and surrounding areas of the project;
- (c) proof of the successful production of the recycled product;
- (d) proof that the recycled product meets the applicable standard referred to in regulation 4(2)(g);
- (e) the applicable permit under the Environment Management (Waste Disposal and Recycling) Regulations 2007; and
- (f) a certificate of completion and permit to occupy issued by a building surveyor in accordance with the Public Health (Building) Regulations 1959, as applicable.

*Extension of time for completion*

7.—(1) If a company to which provisional approval has been granted is unable to complete the project within the period provided in regulation 6(1) due to unforeseen circumstances or some other act beyond the control of the company, the company may apply in writing to the Minister to extend the time by which the project must be completed.

(2) The application must be made within 30 days before the end of the time period provided in regulation 6(1).

(3) If the Minister extends the time under subregulation (1), the company continues to enjoy the duty free concession provided for by regulation 5 during the extended period.

*Final approval if completed*

- 8.—(1) An application for final approval must not be granted unless—
- (a) the applicant holds the applicable permit under the Environment Management (Waste Disposal and Recycling) Regulations 2007;
  - (b) the applicant produces a certificate of completion and permit to occupy issued by a building surveyor in accordance with the Public Health (Building) Regulations 1959, as applicable;
  - (c) the Minister is satisfied that the applicant has in all respects completed the requirements of the project; and has complied with any condition upon which provisional approval was granted;
  - (d) the Minister is satisfied that the recycled product meets the applicable standard referred to in regulation 4(2)(g); and
  - (e) the project is fully completed.
- (2) The CEO must notify the applicant in writing of the decision made under subregulation (1).

*Effect of final approval*

9. From the first day of commercial operation of the recycling business or such other date as the Minister may specify, final approval entitles a company to the following tax exemption on the income of the recycling business—

- (a) in the case of a capital investment from \$250,000 to \$500,000, for a period of 3 consecutive fiscal years;
- (b) in the case of a capital investment from \$500,001 to \$2,000,000, for a period of 5 consecutive fiscal years;
- (c) in the case of a capital investment from \$2,000,001 to \$5,000,000, for a period of 10 consecutive fiscal years;
- (d) in the case of a capital investment from \$5,000,001 to \$10,000,000, for a period of 15 consecutive fiscal years; or
- (e) in the case of a capital investment of more than \$10,000,000, for a period of 20 consecutive fiscal years.

*Revocation of recycling business investment incentive*

10. The Minister may revoke the recycling business investment incentive if the applicant—

- (a) breaches any condition of provisional or final approval;
- (b) fails to produce a recycled product to the standard referred to in regulation 4(2)(g);
- (c) fails to comply with any of the requirements of these Regulations; or
- (d) is convicted of an offence under any written law relating to taxation, customs or excise,

and any tax or duty foregone is payable with the appropriate penalties.

*Transferability of package*

11. If the company in respect of which a recycling business investment incentive has been granted is sold or is to be sold, the purchaser or prospective purchaser may apply in writing to the Minister for the transfer to it of any remaining benefits of the recycling business investment incentive.

*Specification of particular requirements*

12. The Minister may prescribe particular requirements under these Regulations applicable to any particular area of Fiji.

Made this 30th day of July 2021.

A. SAYED-KHAIYUM  
Attorney-General and Minister for Economy

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