

[LEGAL NOTICE NO. 71]

INCOME TAX ACT 2015

---

## **Income Tax (Subdivision of Land Incentives) Regulations 2020**

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 (Subdivision of Land Incentives) Regulations 2020.
- (2) These Regulations come into force on 1 August 2020.

#### *Interpretation*

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

“applicant” means a person who applies for the investment allowance under Part 2;

“application” means an application for the investment allowance under Part 2;

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

“final approval” means the approval granted by the Minister under regulation 8;

“Minister” means the Minister responsible for finance;

“project” means a project for the subdivision of land for residential or commercial purposes and includes all the work undertaken to acquire an approval for the subdivision of land under the Subdivision of Land Act 1937;

“provisional approval” means the approval granted by the CEO under regulation 5;

“subdivision of land investment” means a project with the capital investment specified in regulation 3(1) where the project commences within 24 months from the date the provisional approval is granted; and

“subdivision of land investment package” means the investment allowance and tax exemption on developer profits under Part 2.

## PART 2—SUBDIVISION OF LAND INCENTIVE

### *Investment allowance*

3.—(1) Subject to subregulation (2), a person is entitled to the following allowance—

- (a) for a capital investment of less than \$1,000,000, a 20% tax deduction;
- (b) for a capital investment from \$1,000,001 to \$3,000,000, a 30% tax deduction;
- (c) for a capital investment from \$3,000,001 to \$7,000,000, a 40% tax deduction; and
- (d) for a capital investment above \$7,000,000, a 60% tax deduction.

(2) Notwithstanding subregulation (1), a person who has claimed an investment allowance under this regulation may claim depreciation under the Act and, for such purpose, the investment allowance must not be taken into account.

(3) In the case of Fijian residents or non-residents, the investment allowance may only be given if there is no shift of tax revenue to other countries.

(4) Subject to this Part, if—

- (a) a project has been completed; and
- (b) an investment allowance under this regulation exceeds the taxable income of the applicant; or
- (c) the taxable income from the applicant for the period ended on the next year of income after the project has been completed,

the balance must be carried forward and set off against the taxable income of the applicant for the next successive years of income.

*Power to approve applications*

4.—(1) The Minister or CEO, as applicable, may—

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

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

- (a) the assets and liabilities of the applicant;
- (b) the nature and extent of the project; and
- (c) 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 or CEO, as applicable, under this regulation is final.

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

*Application for provisional approval*

5. A person wishing to carry out a project may apply in writing before 31 July 2022 to the CEO for approval of the proposed project, and such application must set out the following matters—

- (a) the name and details of the person;
- (b) a current statement of all assets and liabilities of the person;
- (c) the location and description of the land;
- (d) a sketch plan showing the proposed project;
- (e) the estimated cost of the project;
- (f) 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;
- (g) details of the proposed method of financing the project; and
- (h) any other information the CEO may require.

*Effect of provisional approval*

6.—(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 subdivision of land investment, is exempt from all duties payable in respect of their importation.

(2) Before capital goods are allowed to be 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.

*Commencement of project*

7.—(1) Any applicant who has been granted provisional approval must commence the project within 24 months from the date of provisional approval.

(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 supported by the following—

- (a) fully audited final accounts showing the total cost of the project;
- (b) a completion certificate from the Director of Town and Country Planning; and
- (c) a final plan showing the site, layout and surrounding areas of the project.

(4) Subject to regulation 8, the Minister must refuse to grant final approval if the applicant has failed to complete the project or has failed to comply with any condition upon which provisional approval was granted.

*Final approval if completed*

8.—(1) An application for final approval must not be granted unless—

- (a) the Minister is satisfied that the applicant has in all respects completed the requirements of the project; and
- (b) the project is fully completed.

(2) The Minister must notify the CEO in writing of the decision made under subregulation (1).

*Effect of final approval*

9. If the Minister grants final approval—

- (a) the applicant is entitled to the investment allowance under regulation 3; and
- (b) the income of the applicant is to be exempt from tax on developer profits derived from the subdivision of land investment.

*Extension of time for commencement*

10. If an applicant to whom provisional approval has been granted is unable to commence the project within the period specified in regulation 7(1) due to unforeseen circumstances or some other act beyond the control of the applicant, the applicant may apply in writing to the Minister to extend the time by which the project must be completed.

*Application of the subdivision of land investment package*

11. If the Minister or CEO has granted a provisional or final approval in relation to a project, the applicant is only entitled once, in relation to the project, to the subdivision of land investment package.

*Revocation of subdivision of land investment package*

12. The Minister or CEO, as applicable, may revoke the subdivision of land investment package if the applicant has—

- (a) breached any condition of provisional or final approval;
- (b) failed to comply with any of the requirements of these Regulations; or
- (c) been convicted of an offence under any written law relating to taxation, customs or excise.

*Specification of particular requirements*

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

Made this 31st day of July 2020.

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