

[LEGAL NOTICE NO. 70]

INCOME TAX ACT 2015
(ACT NO. 32 OF 2015)

Income Tax (Electric Vehicle Charging Station Development Package) Regulations 2016

IN exercise of the powers conferred upon me under section 142(1) of the Income Tax Act 2015, I hereby make these Regulations—

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Electric Vehicle Charging Station Development Package) Regulations 2016.

(2) These Regulations come into force on 1 August 2016.

Laws to be read together

2. These Regulations shall inter alia be read in conjunction with the—

(a) Customs Act 1986 and the Customs Tariff Act 1986 in so far as it relates to customs and duties; and

(b) Income Tax Act 2015.

Interpretation

3. For the purposes of these Regulations—

“capital goods” for the purpose of regulation 7, means capital equipment, plant, machinery 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;

“electric vehicle charging station” means a publicly available electric service equipment which has an electric component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle;

“electric vehicle charging station development package” means the various exemptions, concessions and subsidies given to electric vehicle charging station development investments;

“electric vehicle charging station development investment” means a project with capital investment of \$3,000,000 or more, and the electric vehicle charging station is completed within 24 months from the date the provisional approval was granted;

“Minister” means the Minister responsible for economy;

“owner” means the owner of an electric vehicle charging station who has been granted an approval under these Regulations;

“project” means the construction of a new electric vehicle charging station; and

“provisional approval” means a provisional approval granted under regulation 6.

Power to grant electric vehicle charging station development investment package

4. The Minister may grant an electric vehicle charging station development investment package to a company, which has invested in the development of an electric vehicle charging station in Fiji and has complied with these Regulations.

Application for provisional approval

5.—(1) A company (“applicant”) may, in writing, apply to the Minister for provisional approval to carry out an electric vehicle charging station development investment, setting out the following—

- (a) the name and registered office of the company;
- (b) the names of all directors and shareholders of the company together, including shareholdings of the directors and shareholders;
- (c) a recent statement of all assets and liabilities of the company;
- (d) the location and description of the electric vehicle charging station development site;
- (e) the number and description of the electric vehicle charging station development;
- (f) the detailed description of all proposed amenities and facilities;
- (g) a sketch plan showing in sufficient detail the site and layout of the proposed electric vehicle charging station development and its amenities;
- (h) an estimate of the total cost of the electric vehicle charging station development investment;
- (i) the description, and an estimate of the cost, of each individual stage of construction and details of the proposed timetable for completion of the electric vehicle charging station development investment;
- (j) details of the proposed method of financing the electric vehicle charging station development investment;
- (k) evidence of the company’s ability to complete the electric vehicle charging station development investment;
- (l) estimates of the projected income from the new electric vehicle charging station development; and
- (m) the nature and extent of electric vehicle charging station development investment.

(2) The Minister may—

- (a) require the applicant to provide other information he or she may consider necessary in relation to the application; or
- (b) prescribe particular requirements applicable to any particular area of Fiji on electric vehicle charging station development investment package.

Processing of provisional approval

6.—(1) The Minister may—

- (a) reject the application for provisional approval electric vehicle charging station development investment; or
- (b) grant provisional approval to such application, with or without any condition.

(2) The Minister shall not grant provisional approval under subregulation (1) unless the Minister is satisfied that—

- (a) the application is for an electric vehicle charging station development investment;
- (b) the company intends to complete and is capable of completing such electric vehicle charging station development investment; and
- (c) the electric vehicle charging station development investment will benefit the economic development of Fiji.

(3) When considering an application for electric vehicle charging station development investment under subregulation (1), the Minister shall take into account the following matters—

- (a) the assets and liabilities of the company;
- (b) the nature and extent of the electric vehicle charging station development investment;
- (c) the requirements for electric vehicle charging station development in the area concerned;
- (d) whether the electric vehicle charging station development investment will adequately contribute to the area concerned;
- (e) whether the proposed electric vehicle charging station development is of a suitable size and standard for the area concerned;
- (f) whether adequate amenities would be provided as part of the proposed electric vehicle charging station development; and
- (g) such other matters as the Minister may consider relevant to the desirability or otherwise of the electric vehicle charging station development investment for Fiji and the capability of the company to complete it.

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

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

Effect of provisional approval

7. When a provisional approval is granted, all capital goods, imported within the period specified in the definition of “electric vehicle charging station development investment” under regulation 2, by or on behalf of the company and used in the carrying out of the electric vehicle charging station development investment, shall be exempt from all duties in respect of their importation.

Extension of time for completion

8.—(1) If a company to which provisional approval has been granted is unable to complete its electric vehicle charging station development investment within the period specified in the definition of “electric vehicle charging station development investment” in regulation 2 due to unforeseen circumstances or some other act beyond the control of the company, the owner may apply in writing to the Minister to extend the time by which the electric vehicle charging station development must be completed.

(2) An application under subregulation (1) must contain an explanation of the circumstances which the company considers relevant to the application.

(3) If the Minister extends the time under subregulation (1)—

- (a) the Minister may attach any further relevant conditions or vary the conditions attached to the provisional approval; and
- (b) the company shall continue to enjoy the duty free concession provided for by regulation 7 during the extended period.

Completion of project and application for final approval

9.—(1) Where a company has been granted provisional approval under regulation 6, the company shall complete the project within 24 months from the date of which the provisional approval was granted.

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

(3) An application under subregulation (2) shall 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 local authority; and
- (c) a final plan showing the site, layout and surrounding areas of the electric vehicle charging station development.

(4) Upon receiving an application under subregulation (2), the Minister may—

- (a) reject the application; or
- (b) grant final approval to the application, with or without any conditions.

(5) If an application for final approval is rejected, the duties exempted under this part shall immediately become due and payable by the company.

(6) The Minister must, in writing, notify the following persons of the decision to reject or grant the application—

- (a) the applicant; and
- (b) the CEO.

Final approval if completed

10. Final approval shall not be granted, unless—

- (a) the Minister is satisfied that company has satisfactorily complied with any conditions set out under the provisional approval;
- (b) the Minister is satisfied that the company has in all respects completed the requirements of these Regulations; and
- (c) the electric vehicle charging station is fully completed.

Effect of final approval

11.—(1) The final approval entitles the company to the benefits of an electric vehicle charging station investment package from the first day of commercial operation of the electric vehicle charging station or such other date as the Minister may specify.

(2) Where the owner has—

- (a) been granted provisional approval; and
- (b) completed the project in accordance with the provisional approval, he or she upon being issued a final approval, shall be granted a subsidy up to a maximum rate of—
 - (i) 5% of the total capital expenditure incurred in the electric vehicle charging station development investment provided that the capital expenditure is not less than \$3,000,000 and not more than \$10,000,000; or
 - (ii) 7% of the total capital expenditure incurred in the electric vehicle charging station development investment provided that the capital expenditure is more than \$10,000,000.

Exemption from tax

12. If final approval is granted under regulation 11 to a company, the income of the company is exempt from tax on profits derived from the operation of the electric vehicle charging station for a period of 7 years, if the capital investment in the electric vehicle charging station is more than \$3,000,000.

Depreciation

13.—(1) During the period under regulation 11(1) to the end of the accounting period in which the last day of the tax-free period falls, such depreciation shall be written off the assets of that company in calculating its profits or gains as would have been available to it under these Regulations if the company were not in receipt of the concession provided by this part, and the written down values of such depreciable assets at the end of the accounting period in which the last day of the tax-free period falls shall be calculated accordingly.

(2) For the purpose of subregulation (1), the person shall not be obliged to claim initial allowances but such election shall in that event continue for the whole of the tax free period.

Carry forward losses

14. Subject to these Regulations, any loss incurred by the company in the operation of the electric vehicle charging station may be carried forward and set off against the gross income from that electric vehicle charging station premises for the next 8 years in succession.

Annual accounts

15. Within 6 months after the end of each financial year a company which is entitled to the benefits of an electric vehicle charging station investment package shall submit to the Minister fully audited accounts, including other information that the Minister may require.

Transferability of package

16. If the electric vehicle charging station in respect of which an electric vehicle charging station investment package 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 electric vehicle charging station investment package.

Revocation of package

17. The Minister may revoke any electric vehicle charging station development package if the company has—

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

Made this 30th day of July 2016.

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