



**PRACTICE
STATEMENT No. 2**

SUBJECT	RISK & COMPLIANCE DIVISION: PRACTICE ON THE GRANTING AND REVOCATION OF EXTENSIONS OF TIME TO LODGE DOCUMENTS
DATE OF EFFECT	1 May 2002
CONFIDENTIALITY STATUS	May be released to the public
LEGISLATIVE REFERENCES	Income Tax Act 1974 Section 8,9,9A, 10,44,47,48,49,54 VAT Decree 1991 Section 9,33,34,35 Income Tax (Employments) Regulations Regs. 15,22 Gambling Turnover Tax Decree Section 7
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INTRODUCTION

1. This statement sets out the practice of the Fiji Islands Revenue and Customs Authority (FIRCA) in relation to extensions of time to lodge documents required from taxpayers under the provisions of the various taxing acts. It is issued with the authority of the Chief Executive Officer (CEO) of the Fiji Islands Revenue and Customs Authority, who is also the Commissioner of Inland Revenue (CIR).
2. The documents covered by this practice statement are income tax returns, VAT returns, PAYE annual summaries, and dividend and interest withholding tax annual summaries.
3. The administration of extensions of time to lodge documents is handled by the Lodgement Enforcement Unit (LEU) of FIRCA.
4. As there are several officers within FIRCA who are authorised by the Commissioner (CIR) to apply the extension of time provisions on a daily basis, this practice statement is necessary to give guidance in the granting and revocation of such extensions. It is important that all taxpayers who apply for an extension of time are treated in a similar way. It is also important that taxpayers have access to this document, to understand the basis on which the extensions of time discretion powers have been applied to them.
5. All decisions on extensions of time to lodge, or their revocation, made by FIRCA officers are required to be documented, or stored electronically if appropriate. The name of the decision-maker and the basis of the decision should be explained, with reference to the relevant parts of these guidelines.

LEGISLATIVE BASIS

6. Section 48 of the *Income Tax Act 1974* states:

“The Commissioner may, at any time, extend the time for making any return.”

The returns it refers to are those required to be lodged under Part VII of the Act, under these sections:

Section	Return type
44	“Every person liable to taxation under this Act” (includes individuals, companies and trusts)
47	Returns of: <ul style="list-style-type: none">▪ “companies, corporations, associations and other bodies of all dividends and bonuses paid to shareholders and members and all interest paid to debenture holders”, and▪ “any persons, in whatsoever capacity acting, having the control, receipt, disposal or payment of fixed or determinable annual or periodical gains, profits or incomes.”
49	Special returns by departing residents, non-residents etc.
51	Returns of persons carrying on any trade, profession, business or vocation in partnership to make a joint return as partners in respect of such trade, profession, business or vocation, together with such particulars as may from time to time be prescribed.
54	Returns of “any taxpayer or agent who deducts withholding tax or dividend tax on payment of income under sections 8, 9, 9A and 10 shall.”

7. The requirement to send annual documentation relating to an employer’s Pay As You Earn (PAYE) obligations is found in the *Income Tax (Employments) Regulations*, being regulations made under section 81 of the *Income Tax Act*. Section 47 of the *Income Tax Act* relieves employers from sending in returns under that section where they are also required to do so under the regulations to section 81.
8. The documentation required to be lodged with the Commissioner under Regulation 15(2), being copies each certificate of deduction, and under Regulation 22 being a summary of emoluments, is collectively referred to as a “PAYE annual summary” for the purpose of this practice statement.
9. The *Income Tax (Employments) Regulations* do not specifically provide for the Commissioner to extend the time for lodging PAYE annual summaries. However, the Commissioner accepts PAYE annual summaries as “returns” which are covered by the section 48-extension power, by virtue of the reference in section 47 to the requirement to comply with Regulations under section 81. Therefore extensions of time may be granted for PAYE annual summaries.

10. The requirement to lodge VAT returns is found in sections 33, 34 and 35 of the *VAT Decree*. The extension of time power is in section 9:

“(1) Where anything required by or under this Decree to be done at or within a fixed time cannot be or is not done, the Commissioner may, at any time extend such time for doing the same, whether the time at or within which the same ought to have been done has or has not expired.

(2) Anything done at, or as the case may be, within the time prescribed by the Commissioner shall be valid as if it had been done, or, as the case may be, within the time fixed by or under this Decree.”

11. The *Gambling Turnover Tax Decree 1991* at section 7 requires an annual “summary of turnover”. The Decree does not provide any discretionary power for the Commissioner to grant an extension of time. The only flexibility is the due date specified by the Commissioner in subsection 7(2) within which a summary of turnover is to be lodged after cessation of business. As such, this practice statement does not apply to annual summaries of turnover under the *Gambling Turnover Tax Decree*, other than those on cessation of business.

CONDITIONS FOR GRANTING EXTENSIONS

12. A consistent practice applies to the granting of extensions of time to lodge all documents required under the tax laws (income tax and VAT returns, PAYE annual summaries, GTT annual summaries on cessation of business, and dividend and interest withholding tax lists).
13. A taxpayer may apply to the Commissioner for an extension of time to lodge documents **at any time**, whether or not the due date has passed. This is specifically authorised by section 48 of the *Income Tax Act* and subsection 9(1) of the *VAT Decree*. However, where the due date has passed, late lodgement penalties will be applied automatically. Remission of these penalties should be considered under the practice statement titled: “Fiji Islands Revenue and Customs Authority: Practice on the imposition and remission of penalties”. The decision on whether or not to grant an extension of time to lodge must be considered separately from any decision to remit a penalty.
14. If the due date has passed, an extension of time will not be granted if prosecution action by FIRCA has commenced on the taxpayer. Consideration of any factors giving rise to late lodgement should have been considered prior to making the decision to commence prosecution action.
15. A request for an extension of time to lodge must be made by the taxpayer or their representative. The request must state each year or period for which the extension is sought, the taxpayer’s full name and Tax Identification Number (TIN). Blanket requests for extensions, such as for all the clients of a particular tax agent, should be rejected. Each case must be treated on its merits, which is not possible under blanket requests. Also, the computer systems need to be updated to record any new due date granted, which requires the TIN of the taxpayer to be known.
16. In the request for an extension of time to lodge, the taxpayer or their representative must make a full statement of the reasons why they need the extension. Requests that do not provide reasons should be rejected.
17. The following are examples of **acceptable** reasons for requesting an extension of time:
 - the taxpayer’s business has suffered a catastrophe such as a fire at the business premises;
 - the taxpayer has been subject to a natural disaster such as a cyclone;
 - the taxpayer has suffered severe ill-health or has died; and
 - civil commotion and unrest.

18. In each of the above situations the extension should only be allowed for a reasonable period following the event described. For example, in the most extreme case the events of May 2000 would only justify an extension to December 2000, and in most cases a much lesser period such as three months. The taxpayer must establish a connection between the event and the inability to fulfil the legal requirement on time.
19. The following are examples of **unacceptable** reasons for requesting an extension of time:
- the taxpayer is too busy with their business affairs to lodge the documents;
 - the extension will ease the workload of the taxpayer's tax agent;
 - the taxpayer's business has suffered a downturn in profitability; and
 - the taxpayer is in bankruptcy, liquidation or under management.
20. Irrespective of whether or not the taxpayer has an acceptable reason for requesting an extension of time, the extension should only be granted if the taxpayer passes a test of having a good compliance history. A taxpayer will pass this test if, and only if, during the last three years:
- they have lodged all documents required by the tax law on time or within the time as extended by the Commissioner;
 - they have paid all tax debts on time or within any time-to-pay arrangements agreed between the taxpayer and the Debt Management Services (DMS); and
 - they have never been audited, or if they have been audited, the audit did not lead to any increase in a tax liability.

REVOCACTION OF GRANTED EXTENSIONS

21. The Commissioner reserves the right to revoke, without restriction, any extension of time granted for the lodgement of documents. However, where an extension has been granted by a duly authorised officer in the course of their duties, and in accordance with these guidelines, revocation should be a rare event. Taxpayers require certainty in their dealings with FIRCA. Once an extension is granted in accordance with these guidelines, it should only be revoked in exceptional circumstances, such as:
- information coming to light indicating that the taxpayer is involved in tax avoidance schemes or may be about to flee the country; and
 - the extension being issued by a FIRCA officer otherwise than in the proper course of their duties.
22. The development of this practice statement marks the first document expressing the conditions under which FIRCA will grant extensions of time to lodge. Extensions, which were granted prior to the date of effect of this practice statement, will be reviewed by Lodgement Enforcement Unit and may be revoked if they are inconsistent with this statement.