

(4) Subject to subsection (2) an appeal lies as of right to the Tax Court—

- (a) from any first instance decision of the Tribunal; or
- (b) where any ground of appeal from the Tribunal involves a question of law.

(5) No appeal shall lie—

- (a) from an appeal allowing an extension of time;
- (b) from any decision of the Tribunal where it is provided by this Decree that the decision is final;
- (c) except with leave of the Tribunal, from a decision made by consent of the parties;
- (d) except with leave of the Tribunal, from a decision as to costs only;
- (e) except with leave of the Tribunal or the Court—
 - (i) from any interlocutory decision; or
 - (ii) from any compliance order of the Tribunal.

(6) For the purposes of hearing and determination of any appeal, the Court has all the power, authority and jurisdiction of the Tribunal and such other authority vested in a superior Court.

(7) When hearing and determining an appeal the Court may—

- (a) confirm, modify, or reverse the decision or a part of the decision of the Tribunal or set aside the decision of the Tribunal and substitute its own decision; or
- (b) refer the matter with or without any direction to the Tribunal to reconsider, either generally or in respect of specified matters, the whole or a part of the matter to which the appeal relates.

(8) If an appeal is referred back to the Tribunal, the Tribunal must hear and dispose of the matter without any delay.

Appeal on interlocutory order of the Court

108. A party who is dissatisfied with an interlocutory order of the Tax Court may, within 14 days, apply to that Court for leave to appeal to the Court of Appeal or if leave to appeal is refused by the Tax Court apply to the Court of Appeal for leave to appeal.

Appeals to Court of Appeal

109.—(1) An appeal from the Court shall lie to the Court of Appeal.

(2) For the purposes of an appeal to the Court of Appeal, the Court of Appeal Act applies, with necessary modifications.

(3) An appeal from the Tax Court must be filed within 28 days of the delivery of the decision or judgment.

(4) A notice of appeal does not operate as a stay of proceedings in respect of the decision to which the appeal relates unless the Tax Court or the Court of Appeal so orders.

Part IV — TAX AGENTS' BOARD

Establishment of Tax Agents' Board

110. There is established a Board to be called the Tax Agents' Board to register and regulate the work of tax agents.

Appointment of Members of the Board

111.—(1) The Tax Agents' Board consists of the following members—

- (a) the Auditor-General;
- (b) a member of the Fiji Institute of Accountants nominated by the Council of the Institute and appointed by the Minister; and
- (c) a person with accounting knowledge and experience appointed by the Minister.

- (2) The Auditor-General is the chairperson of the Board.
- (3) The following persons cannot be appointed as a member under subsection (1)(b) or (1)(c)—
 - (a) a person who has been liable for a significant penalty or convicted of an offence under a tax law or has been subject to an order under section 59; or
 - (b) a person who is an undischarged bankrupt.
- (4) The members referred to in subsection (1)(b) and (1)(c) hold office for 3 years and are eligible for reappointment.
- (5) The appointment of a member under subsection (1)(b) or (1)(c) terminates if the member—
 - (a) becomes an undischarged bankrupt;
 - (b) is liable for a significant penalty or convicted of an offence under a tax law or is subject to an order under section 59;
 - (c) resigns by notice in writing to the Minister; or
 - (d) is removed by the Minister, by notice in writing, for inability to perform the duties of office or for proven misconduct.
- (6) A member of the Board must be paid such expenses as the Minister may determine.
- (7) No member of the Board is liable to any action or suit for any act done or omitted to be done in the bona fide execution of the member's duties under this Part.
- (8) The reference to "tax law" in subsections (3)(a) and (5)(b) includes the customs and excise legislation.

Proceedings of Board

112.—(1) At all meetings of the Board, a quorum is 2 members and all questions are decided by a majority of the members attending provided that, in the event of a tie, the chairperson has the casting vote.

(2) If the Auditor-General is absent from a meeting, the member nominated by the Minister is the chairperson for that meeting.

(3) For the purposes of carrying out its powers, duties and functions under this Part, the Board has, subject to section 52 of the FIRCA Act, the same powers and authority to summon witnesses and to admit and receive evidence as are conferred upon commissioners of a Commission of Inquiry by section 9 of the Commissions of Inquiry Act and the provisions of sections 14 and 17 of that Act applies mutatis mutandis in relation to the powers and authority vested in the Board under this Part.

Registration of Tax Agents

113.—(1) A natural person may apply to the Board for registration as a tax agent.

(2) An application for registration as a tax agent under subsection (1) must be in the approved form and accompanied by the prescribed fee.

(3) Subject to subsection (4), if an applicant under subsection (1) satisfies the Board that the applicant is a fit and proper person to prepare tax returns and transact business under the tax laws on behalf of taxpayers, the applicant is entitled to registration as a tax agent.

(4) If an applicant under subsection (1) does not possess an academic qualification related to tax matters acceptable to the Board, the Board may request the Fiji Institute of Accountants to conduct on its behalf an examination to determine whether the applicant's knowledge of accounting and tax matters is sufficient to justify registration of the applicant as a tax agent.

(5) The Board must provide an applicant under subsection (1) with notice, in writing, of its decision on the application.

(6) An applicant dissatisfied with a decision on an application for registration as a tax agent can challenge the decision only under section 82.

(7) Registration as a tax agent is valid for a period commencing on the date of registration and ending on 31 December of the year in which registration is granted.

(8) A registered tax agent, who upon expiry of the tax agent's registration, wishes to be registered for the following year must submit an application to the Board, in the approved form and accompanied by the prescribed fee, for registration within 21 consecutive days of the date of expiry of the tax agent's registration, failing which the tax agent's registration must be cancelled.

Cancellation of Registration

114.—(1) A tax agent must notify the Board, in writing, if the tax agent ceases to carry on business as a tax agent.

(2) Notification under subsection (1) must be made within 7 consecutive days of ceasing to carry on business as a tax agent.

(3) A tax agent may apply to the Board, in the approved form, for cancellation of the agent's registration if the agent no longer wishes to be registered.

(4) The Board may cancel the registration of a tax agent if—

- (a) the tax agent has notified the Board under subsection (1);
- (b) the Board is satisfied that an application should have been made even though no application has been made under subsection (1);
- (c) the tax agent has applied for cancellation of the agent's registration under subsection (3);
- (d) a tax return prepared and filed with the CEO by the tax agent is false in any material particular, unless the tax agent establishes to the satisfaction of the Board that the false statement was not wilfully or negligently made;
- (e) the tax agent is liable for a significant penalty or convicted of an offence under a tax law or is subject to an order under section 59;
- (f) the agent becomes an undischarged bankrupt;
- (g) the tax agent has failed to maintain his or her personal tax affairs in a satisfactory state; or
- (h) the tax agent has, for any other reason, ceased to be a fit and proper person to remain registered.

(5) The Board give notice, in writing, of a decision of the Board's intention to cancel the registration of a tax agent.

(6) A Tax Agent dissatisfied with the Board's decision of the Board's intention to cancel his or her registration can challenge such notice of intension to cancel the registration only under section 82.

(7) Subject to subsection (8), the intention to cancel under subsection (5) or the actual cancellation of the registration under subsection (4) takes effect 30 consecutive days after the tax agent has been served with notice of intention to cancel or the actual cancellation.

(8) If a tax agent served with notice of intention to cancel or where actual cancellation has been effected, and such a Tax Agent gives, notice to the Board of his intention to appeal either the intention to cancel or where actual cancellation of his registration has been effected, such cancellation becomes effective if affirmed by the Tax Tribunal upon appeal.

Only Tax Agents to Accept Fees and Advertise as Tax Agents

115.—(1) No person other than a tax agent can demand or receive any fee for or in relation to—

- (a) the preparation of a tax return;
- (b) the preparation of an objection; or
- (c) the transaction of any business on behalf of any person in respect of the person's rights or obligations under a tax law.

(2) Subsection (1) does not apply to a barrister and solicitor performing legal work in relation to a tax law.

(3) No person, other than a registered tax agent, can represent themselves as a tax agent or indicate that, for reward, the person will offer assistance to another person in respect of that other person's rights or obligations under a tax law.

Offences Relating to Tax Agent's Registration

116. A person who fails to comply with this section commits an offence and is liable for a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both a fine and imprisonment.

Part V—CONSEQUENTIAL AMENDMENTS

Consequential Repeals and Amendments

117. The following enactments are amended as specified in the Fourth Schedule—

- (a) the Fiji Islands Revenue and Customs Authority Act;
- (b) the Gambling Turnover Tax Decree;
- (c) the Hotel Turnover Tax Act;
- (d) the Income Tax Act;
- (e) the Lands Sales Act; and
- (f) the Value Added Tax Decree.

PART VI—FINAL PROVISIONS

Regulations

118.—(1) The Minister may make regulations—

- (a) prescribing forms, fees or other matters as required under this Decree;
- (b) for the administration of the Tax Tribunal and Tax Agents' Board;
- (c) for the proper and efficient administration of this Decree.

(2) Without limiting the general effect of subsection (1), regulations made under that subsection may —

- (a) contain provisions of a saving or transitional nature consequent on the making of this Decree; or
- (b) prescribe penalties for the contravention of the regulations.

(3) If regulations made under this section are of a transitional nature and are made within 6 months after the commencement of this Decree, the regulations may provide that they take effect from the date on which the Decree comes into force.

Transitional and Savings

119.—(1) Subject to this section, this Decree applies to any act or omission occurring, or any tax decision made, before the commencement date.

(2) Any appeal or prosecution commenced before the commencement date is continued and disposed of as if this Decree had not come into force.

(3) If the period for any application, appeal or prosecution had expired before the commencement date, nothing in this Decree can be construed as enabling the application, appeal or prosecution to be made under this Decree by reason only of the fact that a longer period is specified in this Decree.

(4) Any tax liability that arose before the commencement date may be recovered under this Decree, but without prejudice to any action already taken for the recovery of the tax.