



FIJI INSTITUTE OF ACCOUNTANTS

BUDGET SUBMISSION 2021-2022



Contents

1. Introduction	3
2. Executive Summary	4
3. Our Submission	5
3.1. Diversification of the Fiji Economy	5
3.2 Review and Improve Fiji’s Overall Tax Policy Framework	11
3.3 Streamline tax and regulatory requirements.....	14
3.4 Rationalise the Size and Operating Cost of Government.....	26
4. Conclusion.....	27
APPENDIX A – Issues Affecting Tax Agents	28
APPENDIX B – Other Areas for Consideration	29



1. Introduction

The Fiji Institute of Accountants (“FIA”) is grateful for the opportunity to make this submission towards the formulation of the 2021/2022 Fiji National Budget. We thank the Government for its recognition of the FIA’s contributions in prior years and we look forward to working together on the recovery of the Fiji economy following the effects of the COVID-19 pandemic, including the second wave that we are now faced with.

For just over a year, the world has been in the midst of dealing with the COVID-19 pandemic which has caused a major shock to global financial systems, the economy and to people’s livelihoods. Fiji is experiencing the real effects of the extensive economic downturn caused by the pandemic, with, amongst other effects, the crippling of its Tourism Industry which at 40% was the largest contributor to Fiji’s GDP.

We believe that the Government, through its strategic vision and policy creation process, plays a pivotal role as the catalyst for the revival of the Fiji economy. We understand that the Government’s policy measures include the diversification of the economy by focusing on the growth of alternative industries. We believe that with the optimum mix of budgetary support, policies and tax incentives, these alternative industries will be in a position to significantly contribute to the recovery of Fiji’s economy.

The focus of this submission is on post COVID-19 pandemic recovery measures. Certain issues highlighted in previous submissions have also been reiterated. The submission also includes comments and feedback from members of the Institute who were invited to provide their contributions for inclusion in this submission.



2. Executive Summary

The FIA appreciates the Government's efforts with the introduction of the measures in the COVID-19 Response Budget in March 2020 and the National Budget in July 2020.

We outline below the key areas that we wish to recommend for consideration in the 2021/2022 Budget, in order to focus on mapping a pathway to Fiji's economic recovery:

- **Diversification of the Fiji economy:** Identify and target key industry sectors (in addition to Tourism) which have the ability to grow the economy, attract investment and create employment. We believe that with an optimum mix of budgetary support, progressive policies and tax incentives, these industries will substantially aid in Fiji's economic recovery efforts.
- **Review and Improve Fiji's Overall Tax Policy Framework:** An effective Tax Policy Framework should fit within the Government's economic, fiscal and revenue strategy. The current framework needs to be assessed and analysed, and improvements should be implemented and monitored accordingly.
- **Streamline tax and regulatory requirements:** An effective Tax Policy Framework requires a simple and streamlined tax and regulatory requirement regime. In this regard, we suggest that Fiji's tax and regulatory systems be reviewed and streamlined. This will assist in improving the ease of doing business in Fiji, thus creating investment and flow-on benefits such as employment and economic growth.
- **Rationalise Size and Cost of Government:** The size and cost of any government can have a direct impact on the country's economic growth and the living standards of its citizens. We suggest that the Government undertake an exercise to rationalise its size and operational costs, with a view to reaching optimal levels to maximise GDP growth.

The underlying objective for the country is to encourage investment, create employment opportunities and generate economic activity which will result in flow-on benefits to Fiji's overall economy. Government's strategic vision and related policy measures will be the catalyst in facilitating the revival of the Fiji economy.



3. Our Submission

3.1. Diversification of the Fiji Economy

— *Identify and target key industry sectors (in addition to Tourism) which have the ability to grow the economy, attract investment and create employment. We believe that with an optimum mix of budgetary support, progressive policies and tax incentives, these industries will substantially aid in Fiji's economic recovery efforts.*

Over the years, Fiji has been known as one of the world's key tourist destinations. Our friendly people and the Fiji sun, sea and sand has attracted many visitors to Fiji over the years, with close to 900,000 tourists visiting our shores in 2019. The success of the industry was largely a direct result of the targeted budgetary support, progressive policies and tax incentives provided by Government.

The COVID-19 pandemic has seen the collapse of the tourist industry which contributed approximately 40% to the country's GDP. Furthermore, the second wave of the pandemic that we are currently experiencing has substantially reduced the possibility of the recovery of this industry in the near future.

In view of the above, it is important that the Government focus on the diversification of the Fiji economy by creating opportunities to encourage investment in other sectors, in particular the Manufacturing, Agriculture and Information Communications Technology ("ICT") sectors. These sectors have the potential to grow the economy, create employment opportunities and generate export earnings.

Sectors and initiatives for consideration include:

3.1.1. Manufacturing Industry

Fiji has an inherent advantage, being the hub of the South Pacific. This advantage, coupled with several other advantages (such as our shipping and port facilities, technology, competitive wage rate, etc.) makes Fiji a prime location for certain industries and multinationals to set up manufacturing plants to service the South Pacific and other countries.

Incentives for existing manufacturers

We suggest that consideration be given to existing manufacturers who intend to reinvest in new ventures to increase productivity and generate employment opportunities. Incentives can be based on the level of investments and job creation and its potential for foreign exchange earnings. This is to promote our existing manufacturers and entrepreneurs.

Export Income Deduction

The encouragement of export industries which contribute to foreign reserves is important for the Fiji economy, and we acknowledge the increase in the Export Income Deduction (EID) incentive from 50% to 60% for the tax years 2020, 2021 and 2022.



We suggest that:

- The EID be extended indefinitely, or at least for a longer term such as 10 years, in view of the current economic climate and the need to stimulate the economy. This would provide certainty for the future for the manufacturing industry and allow the industry to plan for the future.
- Export incentives be made available to all exporters of goods and services to the maximum extent, and the remittance rule (i.e. the requirement to remit export proceeds to Fiji) under the Schedule 2 of the VAT Act be removed. This will assist in promoting further investment and creating employment and economic activity.

3.1.2. Agriculture Sector

We suggest that consideration be given to the following:

- Utilise the knowledge and experience of private sector entities which have the ability and know-how to market the “Fiji-Brand” for export purposes. Public Private Partnerships (PPPs) can be set up as a vehicle for the same. For this project, we suggest that a number of high value crops are selected (e.g. turmeric, cinnamon, vanilla, certain root crops) and that the PPPs concentrate on providing end to end support for the development, planting, growth, harvesting, packaging and marketing and export sales. The Government can put in place the necessary structures and provide funding for these crops. We envisage that this will appeal to all demographics, including the younger generation of farmers, resulting in reduced urban migration, increased employment and therefore reducing the prevalent social and economic issues.
- Introduce effective incentives to promote investment in producing sustainable inputs for (front end) agricultural development and also the processing of agricultural produce into secondary products (back end).
- Reintroduction of the indefinite carry forward of tax losses for the agricultural industry, given the high risk of investing in the sector.
- Extension of agricultural leases to 99 years; in particular, for sectors of the agricultural industry that produce goods that are marketable offshore (i.e. increase exports); or which can replace imports such as rice, vegetables, meat, etc. (i.e. import substitution).
- Introducing bold and effective incentive packages for the agriculture sector, including industries that support the growth of the agricultural sector (e.g. primary input supplies such as fertiliser, etc. and secondary conversion of agricultural produce such as manufacturing, processing, etc.).
- As has been done in the past, we suggest that Government seriously consider granting total tax exemption to income from agricultural sources. Alternatively, current provisions should be amended to allow for tax incentives on a pro-rata basis where turnover exceeds \$500,000 and should be available to all agricultural activities. The current tax incentives for MSMEs



are available only if total turnover is less than \$500,000 per annum and for selected prescribed agricultural activities (fisheries and tourism).

- Establish processing ventures or incentives to encourage value adding which would support rural communities and farmers creating opportunities through diversifying to agriculture, fisheries and forestry ventures.

3.1.3. ICT Sector

As a significant contributor to both foreign income and employment, ICT is a fast-growing sector of Fiji's economy. Support in the way of tax breaks and capital expenditure incentives are important to ensuring the ongoing attractiveness and viability of the industry.

A large part of Fiji's ICT industry is the Business Process Outsourcing ("BPO") sector. As Fiji delves into the diversification of its major industries, business process outsourcing provides a real and tangible alternative to Fiji's traditional areas of focus, to contribute to the country's economic growth and provide new jobs to its young population.

Tax incentives

We note the incentives that are available to the ICT industry. These incentives were put in place at a time when the ICT sector was in its early growth stages, and we are grateful for the same. We suggest that these incentives be made available to all investors in the industry (both existing and new).

Fiji's ICT / BPO Industry has expanded significantly in recent years, and Fiji is now positioned as the leading BPO offshore destination for the Pacific region. This is evident as Fiji has managed to secure its position by attracting major and renowned BPO investors to reposition their back office processing in Fiji.

In view of the clear potential to contribute to the Fiji economy and generate investment and employment opportunities, we request additional incentives by way of the creation of Special Economic Zones (SEZ) which can be used to drive investment in the BPO Sector. Regulations under the Subsidiary Legislation to the ITA 2015 (similar to the TFR Regulations) would provide incentives for all new investment projects based in a SEZ as follows:

- Provided that the investment (including cost of building construction, support infrastructure, consultant's fees and land) exceeds \$250,000, is located in the SEZ and construction commences at least 24 months from when a project is approved, tax exemption be granted based on the level of capital investment as follows:
 - from \$250,000 to \$1,000,000 – for a period of 5 consecutive fiscal years
 - from \$1,000,001 to \$2,000,000 – for a period of 7 consecutive fiscal years
 - more than \$2,000,001 – for a period of 13 consecutive fiscal years
- Full import duty exemption on all capital goods (including plant, equipment and materials) imported by or on behalf of the company carrying out the project in the SEZ
- Allow extension of time to commence construction if the project is delayed due to unforeseen circumstances



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- 50 percent investment allowance on the total capital expenditure in a project/business in the SEZ as an alternative for capital investments that do not qualify for the tax exemption which would be in addition to the normal depreciation claim
 - A separate investment allowance be introduced for any green initiatives approved by the Government
 - SME tax exemption by way of extension of the income tax exemption for SMEs with gross turnover less than \$1,000,000 to new investors located in the SEZ (increase from the current \$500,000 tax exemption threshold which is currently available for SME's engaged in agriculture, fisheries and tourism only)

In addition to the above, we request your consideration on the following:

- Additional incentives to the developer of the SEZ whereby the tax exemption to the developer of an approved SEZ would be higher considering the significant capital investment as follows:
 - \$10,000,000 to \$40,000,000 – for a period of 15 years
 - More than \$40,000,000 – for a period of 20 years

The tax and customs concessions currently available to the BPO and ICT sectors would continue to be available as applicable.

Data Protection and Privacy Legislation

The protection and privacy of data is a critical issue for any organisation, and more so for the ICT / BPO Industry. Data security is vital to ensure the safety and confidentiality of an entity's data, and data that it may hold for third parties. It is critical that the laws of Fiji are such that the operators, investors and their customers have peace of mind that their data is safe and protected. An effective risk and governance structure is supported by effective data protection and privacy policies and procedures, which are in turn supported by Data Protection and Privacy Laws.

There is an urgent need for Fiji to take the necessary steps towards the composition and implementation of robust Data Protection and Privacy Laws. We understand that at present, the protection of rights to information and privacy are only covered by existing provisions for rights to privacy and access to information in the Bill of Rights.

We suggest that due consideration be given by the Government and necessary steps be taken to draft and implement Data Protection and Privacy Laws in Fiji. The ICT / BPO Industry strongly believes that this will strengthen its position in attracting and retaining major and renowned BPO investors to reposition their back office processing in Fiji. We understand that well-established data protection and privacy laws already exist in Australia and New Zealand, and we can appropriately structure our laws around this.

3.1.4. Fishing Industry

With the current low performance of the fishing industry, this natural resource should be managed effectively, with the objective of retaining maximum value within Fiji. Specific



measures should be implemented to encourage processing and value-added activities within Fiji.

Furthermore, this important natural resource is being depleted. There is a need for greater incentives to be considered for the sustainability of the industry.

3.1.5. Tourism Industry

As noted above, the COVID-19 pandemic has crippled Fiji's tourist industry which contributed approximately 40% to the country's GDP. In view of this, and given that the upcoming budget will be geared towards post-COVID-19 recovery, this is an opportunity for the Government to re-strategise its position with regard to the tourism industry. It would be prudent to devise incentives and strategies to ensure that Fiji again becomes a key destination for tourists who wish to travel for leisure once the borders open up again.

Taxes levied on tourist-related activities

The removal of Service Turnover Tax ("STT"), the reduction of the Environment and Climate and Adaptation Levy ("ECAL") and the reduction in Departure Tax was a welcome relief when announced at the Budget address on 17 July 2020. This was part of our submission last year, and we are grateful that this was implemented. This will provide the much-needed assistance to the tourism industry and make Fiji a competitive and affordable holiday destination, once the borders re-open.

We suggest further simplification and streamlining of the tax regime by removing ECAL on turnover and increasing VAT to 12.5%. This will provide a broader tax base coverage and increase government revenue, while simplifying the tax regime by further reducing the number of different taxes. This will make compliance costs more manageable and allow businesses to focus on carrying out their business activities.

Hotel Tax Incentives

We would like to suggest that Government extend the SLIP incentive package to existing hotels and to hotels which are extending existing investments.

3.1.6. Tax-Free Regions

The "Look North" and similar incentives should be made available not only to new companies but also to existing entities for new investment projects. This would assist in achieving the overall investment and socio-economic goals while removing a perceived bias towards new companies.

In addition to the above, the existing legislation requires that a company which has a Tax Free Region ("TFR") licence derive all of its income from the TFR. As Government would appreciate, there are a number of circumstances which may require a company which has a TFR licence to derive income or contract with entities outside the TFR. Hence, the existing requirements would be prohibitive. We therefore recommend that the legislation be amended



to allow some flexibility (e.g. a company with a TFR licence to derive at least 70% of its income from the TFR).

3.1.7 Social Policy Exemptions

Non-profit and charitable organisations play an important role in our society. Every dollar that a charity spends on providing shelter or food and clothing to the poor is another dollar that the Government can spend on roads, hospitals and schools.

Currently, under the Income Tax (Exempt Income) Regulations 2016 any business income derived by a non-profit or charitable organisation is subject to tax.

Previously, under the Income Tax Act (Cap 201), the business income of a non-profit or charitable organisation was not subject to tax provided that such income was to be expended either in Fiji or for purposes which resulted in the benefit of the residents of Fiji.

We suggest that Government reconsider the current taxation of business income of non-profit and charitable organisations and revert to the provisions previously available under the Income Tax Act (Cap 201) as noted above.



3.2 Review and Improve Fiji's Overall Tax Policy Framework

An effective Tax Policy Framework should fit within the Government's economic, fiscal and revenue strategy. The current framework needs to be assessed and analysed, and improvements should be implemented and monitored accordingly.

The FIA believes that it is critical to have a robust Tax Policy Framework ("the Framework") as this will create certainty and provide the level of confidence in the tax regime needed by investors. The Framework should focus on how the tax regime and legislation fits within the Government's economic, fiscal and revenue strategy.

This COVID-19 period of low economic activity provides Government with the opportunity to undertake a review of the Framework, with a view to redesigning, simplifying and articulating the same, along with legislative changes enabling the application of the new Framework to streamline and enhance tax revenue collections, whilst reducing complexity and compliance costs to taxpayers.

We suggest that a review be conducted on the Framework to assess the compatibility of the taxation regime with the Government's economic, fiscal and revenue strategy. The Framework should also provide a clear and concise mechanism for the application of Fiji's tax laws and compliance.

We also suggest that in this process, a draft version of the revised Framework be articulated and disseminated to the people of Fiji for their views and contributions. This will provide them with a level of awareness and participation in the review and formulation of the country's tax policies.

We outline below some of the specific areas that may be considered when conducting this review:

3.2.1 Review of the overall tax incentives

While acknowledging that incentives may provide a distortion of perceived normal market conditions, for a small economy such as the Fijian economy, a certain level of incentives is critical for the attraction of investment and development of the economy.

A review of the tax incentives that are available under the Fiji tax legislation should be undertaken. There is an array of different tax incentives that are available under the Fiji tax legislation, and it would be prudent to conduct a review all available incentives, with an analysis of approvals, utilisation and the resulting impact on the economy (revenue foregone vs investment and jobs created). If this is done, it will become apparent which incentives are working and actually resulting in increased investment and assisting in growing the economy and providing employment.

We suggest that the resulting mix of incentives be targeted to the industries and potential investment areas that will grow the economy and generate investment and employment opportunities (such as Manufacturing, Agriculture and ICT / BPO, as outlined in 3.1 above).



Incentives to the Tourism Industry should remain, given the fact that this industry will be undergoing an intense recovery period over the next few years. Incentives for MSMEs should also be in place to assist the smaller investors and operators.

Incentives should be designed to practically work for the investor/business so that the intended end results are achieved.

3.2.2 Review and streamlining taxes

As noted above, we appreciate that the Government has removed certain taxes in the last Budget. We are of the view that a further simplification and streamlining of the tax regime will facilitate compliance, tax collections and monitoring of taxpayers.

In this regard we suggest that consideration be given to removing ECAL on turnover and increasing VAT to 12.5%. This will give a broader tax base coverage and increase government revenue, while simplifying the tax regime by reducing the number of different taxes (which the Government has started doing last year with the removal of STT and stamp duty). This will make compliance costs more manageable and allow business to focus on carrying out their business activities.

3.2.3 Tax policy implementation – operational challenges

We suggest that consideration be given to the practical mechanisms of tax measures when reviewing, drafting and implementing tax policy and legislation. Clearly articulated and applied position and reasoning in respect of operationalising tax policy implementation should be reviewed and properly implemented. A practical example is in relation to the levying of non-resident withholding tax (“NRWT”) on cross border payments, and how this affects businesses.

These tax rules should be consistent with the overall provisions of the law (e.g. FITA) and strictly adhere to the relevant provisions of the Double Tax Agreements (“DTAs”) that Fiji has with various countries) as it has a direct nexus with investor confidence.

3.2.4 Review and changes in law

We suggest that the review and rewrite of any legislation (e.g. VAT Act and Customs legislation) should be carefully considered and be positively progressive for business. As an example, the draft rewrite of the VAT Act was potentially more disruptive than progressive in the initial draft form.

Instead of performing rewrites of legislation, we suggest that Government build the proposed amendments into the existing legislation. In doing so, any such amendments should be more progressive and consistent with the international norms to avoid creating additional or further inefficient costs for business.

Furthermore, the alignment of the tax policy framework with the resultant law is critical, along with the implementation in practice. Review of relevant issues and meaningful consultation



should be conducted with key and relevant stakeholders (e.g. zero-rating provisions should be reviewed to ensure symmetry and alignment with the removal of reverse charge of VAT to ensure local service providers are not unduly disadvantaged or need to make onerous changes to invoicing arrangements to produce the same results).

3.2.5 Bank Interest

Given the significant impact of COVID-19, businesses need to control costs. While operational costs can be controlled, bank interest is one cost which is beyond the control of any business.

During this time of substantially reduced revenue levels, businesses need to survive and meet their loan obligations, especially in view of the expiry of repayment holiday periods.

We understand that Banks also need to manage their operations and meet targets; however, by reducing the rates, its customers would be in a position to continue with repayment commitments, while having the ability to look at additional funding for new investments to generate additional economic activity.

3.2.6 Prospective Imposition of Tax Laws

The retrospective introduction of tax laws creates uncertainty for stakeholders and affects investor confidence. Tax laws and its implementation should be applied prospectively.

The FITA 2015 has been in effect since 1 January 2016. The FIA has previously and continues to recommend that:

- a) The application of the legislation be prospective, instead of retrospective; and
- b) All provisions of the FITA 2015 be thoroughly reviewed, and further submissions are invited from the respective professional bodies and other stakeholders.

These recommendations are still relevant notwithstanding the introduction of the FITA. There are still a number of provisions that require review and amendment and the interpretation of certain matters can vary, as well as application of the law retrospectively.

Other examples of tax laws which have been implemented retrospectively include the following:

- a) Income Tax (Withholding Tax) Regulations 2013 which was gazetted on 22 November 2013 but was made effective from 1 January 2013;
- b) Income Tax (Amendment) (No 4) Act 2013 (Act No 37 of 2013) promulgated in November 2013 - various sections of this Act were made effective from 1 January 2012 and others from 1 January 2013.
- c) The introduction of the concept of “depreciable assets” in the FITA thereby imposing income tax on gains on disposal of assets which previously fell within the definition of capital gains.
- d) Income Tax (Amendment) Act 2017 (Act No. 15 of 2017) assented by the President on 28 March 2017 made effective from 1 January 2016.



3.3 Streamline tax and regulatory requirements

An effective Tax Policy Framework requires a simple and streamlined tax and regulatory requirement regime. In this regard, we suggest that Fiji's tax and regulatory systems be reviewed and streamlined. This will assist in improving the ease of doing business in Fiji, thus creating investment and flow-on benefits such as employment and economic growth.

A key component to Fiji's prosperity and stability is investment and economic activity which are achieved through improved investor confidence and providing a conducive business environment. Investors need clear policies, practices and interpretations to make informed decisions which form the basis for their investments. The FRCS should, without compromising its position, work with taxpayers and investors in providing a conducive business environment while continuing to collect taxes.

Furthermore, the streamlining of regulatory requirements of the various government agencies will result in improving the ease of doing business in Fiji, which is a key component to business and investor confidence.

While Fiji currently has a relatively low corporate income tax rate of 20%, there are various other taxes in place. We suggest that the Government review the overall tax structure with a view to streamlining the various taxes. Simplifying / streamlining the tax regime will facilitate compliance, tax collections and monitoring of taxpayers. This will make compliance costs more manageable and allow business to focus on carrying out their business activities.

The FIA makes the following specific recommendations:

Tax reform

3.3.1 Income Tax Rates and Levies

Whilst Fiji's income tax rates have generally been reduced over the last few years, many new taxes and levies and accompanying requirements have been introduced which makes it more expensive and administratively cumbersome to do business in Fiji.

We thank the Government for the removal of STT and the reduction of the ECAL as part of last year's Budget reforms, along with the reduction in Departure Tax.

Furthermore, as noted above, we suggest further simplification and streamlining of the tax regime to facilitate compliance, tax collections and monitoring of taxpayers.

We suggest that the above be carried out by implementing the following measures:

- Remove ECAL on turnover and increase VAT to 12.5%. This will provide a broader tax base coverage and increase government revenue, while simplifying the tax regime by further reducing the number of different taxes. This will make compliance costs more manageable and allow businesses to focus on carrying out their business activities.



- Align the tax regime for business activities undertaken by sole traders (which would include MSME ventures) to the prevailing corporate tax rate and remove SRT. Sole traders are currently disadvantaged because of the high tax rates that they can be subjected to when making high profits.

The following measures may also be considered to increase government revenue:

- Increase the highest marginal tax rate by 5% for any entity with taxable income exceeding \$250,000. This would increase overall tax collection from entities with larger taxable profits.
- Increase the annual LTA taxes (ACC, wheel tax, road levy, inspection fees) on private motor vehicles, but make it a one-off fee or tax to reduce processing costs. This would effectively make vehicle owners responsible for issues such as motor vehicle pollution, congestion and road conditions. This should not be levied on commercial vehicles as the cost would be passed on the consumer.
- Increase the import duty on second-hand vehicles.
- Introduction of a “disposal levy” on motor vehicles from the 10th year of manufacture. This can be built into the annual LTA renewal process.

3.3.2 VAT and Income Tax Refunds and Interest on Delay in Refunds

We understand that with the current pandemic, Government may be faced with cash flow issues. The FIA suggests that the FRCS continue to pay VAT refunds, and if necessary, this can be done by staggering the amounts paid out.

Furthermore, the FIA still believes that as an incentive to the FRCS to continue to improve its refund practice, **interest should be automatically paid** for the delay in issue of refunds as provided for under the respective legislation, similar to how late payment penalties are automatically imposed by the FRCS.

3.3.3 PAYE Final Tax and Business Losses for MSMEs

The reintroduction of offsetting of business losses with employment income is welcomed and to some extent addresses the concern raised by the FIA in prior year submissions.

We suggest that the threshold of \$20,000 to be removed to further encourage investment in business activity in MSMEs by individual taxpayers.

3.3.4 Business continuity test for carried forward losses

Under the FITA 2015, if there is a change of more than 50% in the underlying ownership of a company, any carry forward loss incurred for a tax year before the change is not allowed as a deduction in a tax year after the change, unless the company—



- carries on the same business after the change as it carried on before the change until the earlier of either the loss has been fully deducted or the period for carrying the loss forward under the Act has expired; and
- does not, until the earlier of either the loss has been fully deducted or the period for carrying the loss forward under the Act has expired, engage in any new business or investment after the change if the principal purpose of the company or the members of the company is to utilise the loss so as to reduce the Income Tax payable on the amounts derived from the new business or investment.

The above rules can be quite limiting on business which may choose to diversify their operations, especially in light of the COVID-19 pandemic or similar situations.

The Government may wish to adopt legislation to relax the loss continuity rules.

The New Zealand government is currently proposing a similar amendment whereby the NZ IRD will allow losses to be carried forward unless there is a major change in the nature of the company's business activities, having regard to the assets used and other relevant factors. Relevant factors would include business processes, use of suppliers, markets supplied to, and the type of product or services supplied. Not every change will be a major change. Any change in business activities (including use of assets) must be considered against the unchanged business activities (including use of assets) employed by the company to generate income to establish whether the change is "major".

We suggest the Government consider similar amendments to the FITA 2015, to assist businesses with carry forward losses going forward.

3.3.5 NRWHT

A clearly articulated and applied position and reasoning in respect of the levying of NRWHT on cross border payments is essential for business. These tax rules should be consistent with the overall provisions of the FITA and strictly adhere to the provisions of the Double Tax Agreements ("DTAs") that Fiji has with various countries. The provisions of the relevant DTA should take precedence where applicable.

As Fiji continues to grow economically and Fiji businesses utilise foreign professional services, the impact on business costs increases significantly when the FRCS incorrectly levies NRWHT on these services, and the Fiji business is required to bear the cost of the incorrect imposition of NRWHT. Furthermore, resources including funds that may be used for deriving more income (which means more revenue in the form of taxes for the Government) are diverted to unproductive purposes in objecting to the incorrect imposition of NRWHTs.

We would like to suggest that the FRCS provide, in consultation with the business community and the FIA, clear definitions on the items (services) on which NRWHT is applicable.



Additionally, where the profit margin on professional services is very low (e.g. 7%) it is inequitable to charge withholding tax at a rate of 15%. To address this inequity, we suggest that the old rules be reintroduced and allow abatement or rebate of withholding tax paid to non-residents by allowing the non-resident to lodge income tax returns and claim credits for any NRWHT paid.

The above change would be consistent with international practice and reduce the cost of doing business as the tax is often borne by the Fiji entity on a grossed-up basis.

3.3.6 NRWHT on Payments for Professional Services

The FRCS's current practice is to impose NRWHT on all payments for professional services. This is inconsistent with the provisions of most DTAs, resulting in many service providers not being able to claim credits for the NRWHT paid in Fiji. Consequently, most service providers require payment on a grossed-up basis thus resulting in increased costs of doing business in Fiji.

NRWHT should be imposed in accordance with the provisions of the relevant DTAs. Relevant DTAs should be renegotiated where Government intends to impose NRWHT on all payments for professional services. The provisions of the DTA should take precedence where applicable.

3.3.7 Contractor's Provisional Tax ("CPT")

We acknowledge Government's initiative to revert to the Certificate of Exemption ("COE") approach in the COVID-19 Recovery Budget amendment.

However, we still note that effective 1 August 2019, the Standard Interpretation Guideline (SIG) overrides the Practice Statement on this subject. The change being now to include implied contracts. Again, the current law and practice imposes CPT on such payments for services. This practice is still contrary to the intention behind the deduction of CPT from payments for services (the intention being to collect tax payable by non-compliant service providers at source). It is unlikely that non-compliant taxpayers will enter into written contracts.

Consideration should be given to repealing the current provisions relating to CPT and fully reintroducing the COE regime which will reduce compliance costs for businesses and the FRCS's administrative costs. This will achieve the overall intention of CPT i.e. to tax non-compliant taxpayers by imposing CPT at source.

3.3.8 Thin Capitalisation Rules

We recommend that Thin Capitalisation Rules should, for group entities within Fiji, apply on a net debt and net interest basis, given the test of eliminating borrowings which pass from one entity to another and interest expense which is offset by interest charged to a related party.



3.3.9 Royalties – Double Taxation (Income Tax / Fiscal Duty)

The FIA notes that the FRCS imposes fiscal duty plus VAT on certain royalty payments (including lease of assets from offshore) on which non-resident royalty withholding tax has already been paid. As a consequence, the taxpayers are now subject to double taxation on the same transaction, including a double imposition of VAT.

The FRCS needs to determine the nature of the royalty payments, i.e. whether these are value consideration for services (subject to non-resident royalty withholding tax plus reverse charge VAT) or value for the goods (subject to fiscal duty plus VAT).

Accordingly, the FRCS and Government policy needs to determine if it wishes to impose the 15% non-resident royalty withholding or the fiscal duty in respect of these royalty payments but not both.

Any changes in law or practice should be prospective.

3.3.10 Debt forgiveness

We note that the Government and the FRCS in its efforts to provide further incentives to taxpayers under the current pandemic had extended the suspension of the debt forgiveness provision in the FITA to 31st December 2021.

Notwithstanding the above, we suggest that the debt forgiveness provisions be repealed altogether as the accounting principles of reversing entries will capture items for which deductions were previously claimed and subject such reversals to tax.

3.3.11 Wages & Salaries – additional deduction

We refer to the Employee Incentive whereby a taxpayer is allowed a 300% deduction for salary and wages paid to an employee affected by COVID-19 and who is required to be quarantined, and request the following be considered:

- The incentive be extended to any wages and salaries which employers have continued to pay to staff, despite being unable to operate during the lockdown period; and
- That the expiry date be extended from 31 December 2020 to 31 December 2022.

3.3.12 Incentive to landlords for commercial rent reduction

We refer to Regulation 5 of the Income Tax (Other Incentives) Regulations 2018 which allows a deduction for the aggregate sum of the difference paid between any rent payable and the reduced rental amount.

We note that the deduction period expires on 31 December 2021. We request that consideration be given to extending this period to 31 December 2022.



3.3.13 COVID-19 relief measures

We refer to the measures that were announced and legislated as part of the COVID-19 Recovery Budget.

We understand that such measures were implemented to assist/provide relief to affected business and that these were introduced notwithstanding any other provisions of the FITA 2015.

Whilst the FRCS has verbally confirmed the above understanding, the law as is does not state this. We request that the FITA be amended to clearly state that the COVID-19 amendments are notwithstanding other provisions of the Act.

3.3.14 Natural Disaster Reserve Account

To assist businesses during this period, we suggest that the Government consider allowing businesses to withdraw funds in the Natural Disaster Reserve Account to be used to assist in cash-flow requirements, without incurring a tax liability for the same.

3.3.15 Individual taxes – clarification required

The following issues need to be specified in the FITA 2015 and the Regulations, where applicable:

- The legislation in relation to Contractors Provisional Tax filing and Employee Monthly Schedules / Payday reporting is unclear. These are not classified as “returns” under the Tax Administration Act. However, TPOS requires a Tax Return Declarations (which are specifically for tax returns) when lodging these returns.
- Under Regulation 6, bonuses / one-off payments are subjected to full income tax in the period of payment. However, the same treatment is not used for SRT and ECAL. We request that this anomaly be appropriately rectified (unless SRT/ECAL is removed as suggested above) (unless SRT/ECAL is removed as suggested above).

3.3.16 Income tax exemption: Unit Trusts

In support of the government Financial Inclusion Initiatives and the Capital Market Development Strategy, we consider that Unit Trusts are exempt from income tax. There are currently two Unit Trusts in Fiji.

Unit Trusts are setup as Managed Investment Schemes designed to offer investors with affordable, high quality investment products that offers competitive return.

Generally, the Unit Trust investment products are open to all Fiji residents including rural and maritime mum and dads as investors.



Unit Trusts are pooled investment vehicles designed to raise funds from the public and invest these funds. The investments are made to enable unit holders' investments to grow in value and earn income over time.

Unit Trusts are registered with the FRCS as a “company” based on the definition of “company” under the FITA 2015. However, there are no current provisions under the FITA 2015 that specifically exempts the income of the Unit Trusts from income tax. As a matter of practice, the FRCS has not subjected the income of the Unit Trusts to income tax on the basis that all distributable income is declared for distribution to unit holders.

Under the provisions of the Income Tax Act (Cap 201), Unit Trusts were not exempt from income tax but were entitled to a deduction for dividends paid or credited to unit holders. Where the Unit Trusts distributed all of its income, then the Unit Trusts were entitled to a deduction of the equivalent of the dividends distributed (paid or credited) under the provisions of section 21(1)(k) of the Income Tax Act (Cap 201).

However, the FITA 2015 (which is a consolidation and simplification of the old Income Tax Act) seems to have inadvertently omitted the exemption that was previously accorded to Unit Trusts.

3.3.17 Film-making and audio-visual regulations – clarification required

The Income Tax (Film-making and Audio-visual) Regulations requires certain clarification with regard to items of expenditure which qualify as “Fiji expenditure”. We suggest that this be reviewed and amended as required.

3.3.18 Taxation of Life Insurance Companies and Mining Sector

Currently, the taxation of the mining sector and that of life insurance business continues to be determined based on the old provisions of the Income Tax Act (Cap 201). In this regard, the FIA suggests that:

- a) Under the provisions of Section 49 of the FITA, the appropriate regulations for the computation of tax for the life insurance business should be finalised and gazetted. FIA suggests that this regulation is drafted in consultation with the industry stakeholders and relevant bodies; and
- b) Part 6 of the FITA dealing with the taxation of the mining sector should be made effective immediately.

3.3.19 Tax Avoidance Provisions

The FIA agrees that the FRCS should collect its fair share of taxes and penalise those taxpayers that intentionally engage in schemes to avoid taxes.

However, the tax avoidance provisions in its current form (amended in 2017) restricts businesses and taxpayers from engaging in any form of planning and assumes that the maximum taxes should be paid, even though the planning may not be primarily motivated by



tax implications. Businesses and taxpayers engage in planning for various reasons including succession planning, exit strategies, asset protection, etc.

The tax avoidance provisions should be reconsidered to allow businesses and taxpayers to properly plan their affairs. The FRCS should also reconsider its stance with respect to planning around tax incentives available to taxpayer. This will also allow businesses to invest and grow without the undue risk of the FRCS deeming as a tax avoidance scheme, every transaction that does not result in the maximum potential tax earnings being derived.

3.3.20 Statute of Limitations

The CEO of the FRCS may amend a tax assessment at any time in case of fraud, wilful neglect, or serious omission by or on behalf of the taxpayer, or in any other case, within 6 years of the date the assessment.

The FIA reiterates that it agrees that the FRCS should collect its fair share of taxes and penalise those taxpayers that intentionally engage in tax fraud.

We also reiterate that the current definition of “serious omission” in the Tax Administration Act (TAA) is very broad and allows the CEO of the FRCS to amend assessments at any time where there is an omission of any amount of tax, even if the omission was not intentional or material. This practically indefinitely extends the 6-year limitation on assessments being reopened even if no fraud is involved. The effect of this is that taxpayers would need to maintain records indefinitely to defend any adjustment that the FRCS may seek to make in the future. This also affects the certainty and confidence of doing business in Fiji.

We suggest that the CEO of the FRCS be provided with discretion in the application and removal of Section 46(a) audit penalties.

3.3.21 Taxpayer time limit to lodge amended tax returns

The provisions of the FITA 2015 currently allows taxpayers only two years to lodge amended income tax returns. We suggest that the TAA be amended to allow taxpayers six years to lodge amended returns, similar to the six years that allows the FRCS to make changes to assessments.

3.3.22 Customs Duty on imported goods

Basis of value of imported goods

This is currently assessed on CIF Value i.e. FOB Cost + Insurance + Overseas Freight. As Fiji is regionally isolated and far from the ‘source’ markets (such as NZ, Australia, USA, etc.), the overseas shipment cost i.e. freight component is usually quite significant. It would assist the business community if Customs Duty is calculated on the FOB Value (i.e. excluding overseas freight and insurance costs).



Example:

- FOB cost of goods from Australia \$10,000
- Insurance 1% \$100
- Freight for one container \$3,000
- CIF value \$13,100
- Customs Duty at say 15% \$1,965
- Landed Cost to importer \$15,065

If Customs Duty was based on FOB Cost of \$10,000, then 15% Customs Duty would be \$1,500; so, the Landed Cost to importer is only \$11,500 (and not \$15,065). This would result in a significant saving of over \$3,500 for the importer which would mean Fiji would become more competitive and the purchasers (and consumers) would enjoy a cheaper price on those goods.

Stainless steel coil nails

With the recent natural disasters, there is a demand for the installation of synthetic thatching by hotels and other properties. These products are not available in Fiji. Furthermore, the “stainless steel coil nails” which are required to be used on installation of the synthetic thatching to ensure warranty and cyclone cover are also not available in Fiji, and are imported for this purpose.

These nails are currently classified under HS code “7317.00.00 “Nails, tacks, drawing pins, corrugated nails, staples ... and similar articles, of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper” at 32% fiscal import duty, free import excise and VAT of 9%.

As outlined above, the stainless steel coil nails are required to install and fasten the products to make them eligible for the 20-year warranty and cyclone cover. These stainless steel coils nails are not manufactured locally.

It is essential that Fiji properties and resort owners have access to the above products, which will ensure resistance to a number of negative elements and provide 20-year warranty and cyclone cover.

We request that consideration be given to reducing the above import duty code to 0% fiscal import duty, free import excise and VAT of 9%.

Review of import duties

We suggest a review certain import duties to provide assistance to local manufacturers.

3.3.23 VAT Monitoring System

The deadline for the implementation of the VAT Monitoring System (“VMS”) (under the EFD legislation for industries that have not been covered) was deferred to 1 January 2022.



In view of the impact of the COVID-19 pandemic on the business community, we suggest that this requirement be put on hold until such time business are able to divert time and resources to the same.

3.3.24 Taxpayer Online Services (TPOS)

We continue in our dialogue with the FRCS on the need for a proper review and external testing of the various modules which are yet to go live on the TPOS. These need to be reviewed and tested externally until the taxpayers and the tax office agree on its implementation.

While the intention of the TPOS is good, the system has a number of challenges and issues which need to be addressed.

The Government needs to urgently review the proposed rollout of the Corporate Income Tax (“CIT”) module. Concerns have been raised with the FRCS on the same. These include the following:

- There is a lot of work that still needs to be done before this module can be effectively implemented. The module is simply not user-friendly and is cumbersome to use. It requires major structural and process changes in order to deliver workability and efficiency to taxpayers.
- The module had not been fully and properly evaluated or tested by the FRCS prior. The developers and the project team need to ensure that every single process and line item of the module is properly tested.
- The module is designed as a one size fits all approach, where small and medium companies which may only have manual records will be subjected to the same level of data collection and complexity as large corporates with possibly more sophisticated accounting systems. We believe there should be a different simplified version of the final CIT product for use by SMEs.
- The processes required would result in corporate taxpayers having to make changes to their systems and develop new processes to be able to collate and provide the voluminous information that would be required when completing the CIT online.

The CIT and other modules require wider consultation and proper testing before being rolled out. The FRCS appears to be rushing what are major tax returns that require proper feedback, testing and correcting prior to rollout.

Regulatory reform / other recommendations

We are grateful for the removal of the Business Licensing requirement. This will contribute to the ease of doing business in Fiji. In this regard, we suggest that further consideration be given to improving the ease of and reducing the cost of doing business in Fiji. In this regard, we outline below some areas which require attention:



3.3.25 Registrar of Companies (“ROC”) – re-registration process

We note and commend the Government for taking the step to update the records of the ROC to include all existing companies and business names, via the re-registration process. The due date for these re-registrations is 31 July 2021.

We request that the ROC be provided with the resources to be able to process all re-registration applications in a timely manner.

3.3.26 Eliminate duplicated regulatory steps

Government departments, including statutory bodies, need to remain focused on reducing unnecessary legislative burden on business by reducing red tape and unnecessary compliance costs. For instance, there are documentation requirements that are duplicated by several regulatory bodies. There is a need for a “one stop shop” concept and FIA considers that any proposed legislative / administrative changes should be subject to stringent tests on its necessity, design and impact on investors and businesses.

Examples:

- The need to obtain approval from both Investment Fiji and the Reserve Bank of Fiji for changes in shareholding increases compliance costs and is time consuming. Approval should only be required from one regulatory authority and the different regulatory authorities should be encouraged to share information.
- One of the roles of Investment Fiji is to approve and recommend investor permit approvals for foreign investors to the Immigration Department; however, the Immigration Department also conducts a verification and repeats the same compliance requirements. This is a duplication of processes which results in unnecessary delays in the approval process.

We understand that certain steps are being taken by Investment Fiji to address the above, which we would welcome. We suggest that proper consultation processes be undertaken prior to the implantation of new legislation or processes.

3.3.27 Family Care Leave

While we acknowledge the COVID-19 measure of reducing family care leave and paternity leave to 2 days per annum during the COVID-19 period, we believe that a review and re-design of family care leave is needed. This leave has caused substantial work disruption since no advance notice is required and businesses are not able to monitor the same.

In this regard, we suggest that Government consider removing family care leave entitlement, as the employers may use their discretion to provide time off to their employees for this purpose.



3.3.28 FNPF Penalties

We note that penalties for late payment of contributions are \$100 per employee per month, irrespective of the amount of the FNPF contribution. The penalty regime is also now automated within the FNPF IT software. These penalties are extremely high, considering some contributions may be as low as \$30 per employee per month. It is also unclear as to whether the penalty benefits the employee whose contribution was paid late.

We recommend that the penalties be reviewed to a more reasonable level, commensurate with the amount of the late contribution and include an element of additional contribution to the employee (akin to interest foregone on the employee's balance).

3.3.29 Work permits – introduce a “Remote Worker Permit”

The COVID-19 pandemic has resulted in certain changes in the way that businesses around the world conduct their operations. In this regard, we suggest that Government consider a review of the work permit categories, with a view to introducing a “Remote Worker Permit”.

This has been introduced in Vanuatu where a holder of such a permit must be able to demonstrate that they work either for an international company, or for their own business outside of Vanuatu. They must not engage in any employment or commercial activities in Vanuatu, or seek employment with a Vanuatu company.

Fiji may wish to consider the above, along with other immigration permits in view of the long lasting effects of COVID-19.

3.3.30 Council rates

We request that consideration be given to the reduction of council rates by 30% to 40% for all businesses that have been closed during lockdown and due to restrictions.

3.3.31 Tax Agent concerns

Please refer to Appendix A for an outline of recommendations with regard to Tax Agents.

3.3.32 Other areas for consideration

Please refer to Appendix B for some other issues for consideration by Government going forward.



3.4 Rationalise the Size and Operating Cost of Government

The size and cost of any government can have a direct impact on the country's economic growth and the living standards of its citizens. We suggest that the Government undertake an exercise to rationalise its size and operational costs, with a view to reaching optimal levels to maximise GDP growth.

The FIA supports Government's expenditure policy which is aimed at offering efficient Government services, developing infrastructure, and support and assistance to the needy. Emphasis however needs to be placed on proper management and control of expenditure and improving efficiencies within Government, thereby maximising returns for each dollar spent and importantly getting it right the first time.

We also commend Government's initiative in increasing its level of capital expenditure. Government should also invest in the maintenance of its assets to avoid substantial capital expenditure in the future in terms of replacement of assets due to lack of proper maintenance.

We suggest that the Government consider making reductions in its operating expenditure where possible, particularly for non-productive areas.

One of the key areas that may be considered would be to follow in the steps taken by the private sector and reduce the civil service payroll (which we understand is the Government's largest expenditure item). We suggest that this be reduced by 15% to 20%. The savings may be diverted to areas that have been discussed earlier in this submission to create further economic activity and employment opportunities.



4. Conclusion

The focus of this Budget and for the next few years will be to recover from the damaging effects of the COVID-19 pandemic, which has caused a major shock to global financial systems, the economy and to people's livelihoods. Along with the rest of the world, Fiji is experiencing the real effects of the extensive economic downturn caused by the pandemic.

We reiterate below the key areas that we wish to recommend for consideration in the 2021/2022 Budget, in order to focus on mapping a pathway to Fiji's economic recovery:

- Diversification of the Fiji economy
- Review and Improve Fiji's Overall Tax Policy Framework
- Streamline tax and regulatory requirements
- Rationalise Size and Cost of Government

We believe that the above measures will take Fiji in the right direction towards encouraging and increasing investment, creation of employment and growing the economy.

In addition to the above, there needs to be a focus placed on increasing the ease of doing business and reducing the cost of doing business in Fiji.

Policy frameworks for the various relevant areas should be developed and reviewed consistently with a focus on sustaining growth in light of the current pandemic. The policy framework for relevant areas such as trade, investment, fiscal and monetary policy including taxation should then be used to ensure that the existing and future laws are consistent with this policy framework.

We would be pleased to provide further assistance, guidance and support to Government, and work with Government to achieve our mutual national goals.



APPENDIX A – Issues Affecting Tax Agents

1. Tax Agents' Portal

Please refer to our comments in 3.3.20 above on the current issues being faced.

We also reiterate our comments from last year, as follows:

- Team leaders can only assign tasks, but have no other administrative access such as checking and reviewing returns online;
- Ability to view clients for only 1 tax agent, and denies viewing other clients that maybe under a couple of tax agents for different tax purposes;
- Logins not working properly (multiple logins for different tax agents);
- No flexibility in claiming Customs VAT for future months where VAT has been paid and documents received by the taxpayer. The only solution available is to amend the VAT return when these documents are made available;
- Utilities invoice numbers - vendor invoices do not have a proper invoice number, so account numbers are used. This generates an error in the portal with regard to VAT input claims on such invoices;
- Notices of Assessment from TPOS generated from the portal are not detailed, that is, it does not show sales, VAT output and input declared. Only shows payment made and assessed amount;
- Since VAT lodgement is online, we request that objections can be done via TPOS;
- VAT objections to amended assessments cannot be lodged on TPOS;
- For VAT amendments, could the officer at ORT be identified;
- When tax becomes due, and is allocated to DMS, case manager contact details should also be shown;
- For change in details request, we request a confirmation email to both the tax agent and the tax payer;
- Under the Payday reporting module, for weekly / fortnightly pay periods, the portal does not allow the start date to be in another month, which is not feasible.

2. Other

- Create a special window of providing service to Tax Agents similar to the “Gold Card” system currently in place for high-value business taxpayers.
- Given that the Tax Agents are now exposed to severe penalties, we request that the Tax Agents be profiled to ensure they are properly qualified and admissible to the FIA.
- It is noted that a draft Tax Agents' Code of Conduct was circulated by the FRCS for review and comments by the FIA during 2016. We suggest that the FRCS staff code of conduct also be circulated to Tax Agents for their information and to assist in ensuring that the code is followed.



APPENDIX B – Other Areas for Consideration

1. Tax Evasion and the Hidden Economy

We note that the FRCS has introduced the whistle blower policy and is aggressively looking at Customs compliance issues.

We suggest that the Government also review and implement initiatives taken by other countries to reduce the level of tax evasion and the hidden economy.

2. Review of Transfer Pricing Legislation

A review of Transfer Pricing legislation for clarity on documentation requirements is needed. For example, what should be included in Transfer Pricing Documentation, whether entities meeting a certain threshold should lodge Transfer Pricing documentation, or whether group documentation that includes the Fiji entity is sufficient. De-minimis rules for small and medium enterprises may be introduced, with up to, say, three related party transactions, e.g. interest on loans or management fees which provide a minimum or maximum acceptable benchmark rate, and for which transfer pricing documentation is not required.

Consideration should be given to legislating the Advanced Pricing Agreement (APA) process. APA is an administrative approach that attempts to prevent transfer pricing disputes from arising by determining the transfer price(s) prior to the transactions taking place. The idea of APA is to reach an agreement prior to the transaction, whereas a transfer pricing audit examines the transaction after it takes place.

Any proposed introduction of related penalties should be carefully reviewed before its imposition and should be consistent with the TAA penalty provisions.

3. Tax Tribunal

The mechanism for challenging decisions of the FRCS are simply through the Tax Tribunal which can be an expensive and a lengthy endeavour and cost inefficient, particularly where the matter is one of principle and the quantum of tax is not significant. Such practices create more uncertainty for businesses, discourage further investment and erode the confidence of doing business in Fiji.

There should be an alignment of the Customs laws with the Tax laws in this regard as well. The Customs laws require the taxpayer to address any assessments at the court level rather than independent review at FRCS level. The call comes from the fact that the FRCS conducts joint audit operations on importers who are taxpayers on similar issues.

4. Independence from Objection Review Team (“ORT”)

FIA would like the FRCS to further ensure a high level of independence with the current ORT when dealing with objection cases. What is being noted is a rather aggressive approach by



some units at the FRCS where technical issues are assessed rather hastily and sent to the ORT to resolve.

5. Role of the FRCS in Promoting and Stimulating Investments and Economic Activities

The FRCS plays an inherent role in promoting investment and economic activities. We suggest that the FRCS be aware of this role and ensure that it recognises the commercial reality of economic activity and be able to visualise economic results.

We reiterate some avenues available to the FRCS to assist in this role include:

- Identification and implementation of specific measures to improve dialogue and understanding between the business community / investors and the FRCS. Establish forums to consult the business community. For example, a forum by the FRCS with the shipping industry, the manufacturing industry or even the hotel industry.
- Continuing to undertake an independent review of the tax administrative policies, procedures and activities to assess its impact on business activities and economic activities, and its impact on the economic development of the country. Such reviews are carried out regularly in a number of countries with the objective of identifying difficulties and problems faced by businesses and taxpayers, with suggestions for improvements and systems and processes aimed at promoting business activities and economic growth.
- Improving customer service levels and internal efficiencies to allow business processes to be completed effectively and efficiently by relevant officers and minimising the duplication of effort and time to attend to taxpayer matters.
- Exercise of the Commissioner's discretion in all tax laws to consider changing technologies in the various industries.

6. FRCS – As a Business and Commercial Enterprise

As discussed in last year's submission, there is a need for the FRCS to view its operations from a commercial / cost/benefit approach. Inefficiencies in business and IT processes as well as time spent by staff in resolving matters are all costs to business.

We acknowledge that based on past submissions on this issue, the FRCS has extended its opening hours for lodgement on Saturdays from 9am to 1pm and have opened satellite ports for tax and customs payments in attempts to reduce at least some business cost.

Other measures that may be considered include:

- Working with other regulatory bodies such as Investment Fiji and other Government Ministries on approved projects by proactively reaching out to these taxpayers and working out solutions to ensure that projects are not stalled. FIA would like to propose the set-up of a toll-free line for FRCS, FNPf, Immigration and Investment Fiji to save on communication cost for investors and businesses when seeking advice.



- Further profiling of taxpayers with the objective of providing greater flexibility to taxpayers (including MSMEs and individuals) maintaining a high standard of compliance. Furthermore, Government needs to look at the ease of doing business, particularly for MSMEs. There are many procedures and requirements to start a business along with the related costs. This issue needs to be properly reviewed and addressed so that MSMEs can be set up efficiently and be allowed to operate without the unnecessary cost and red tape.
- The FIA acknowledges and commends the FRCS on the introduction of a taxpayer profiling process for the purposes of compliance. However, the FIA suggests that this process be developed further and shared with taxpayers to promote transparency and positive working relationships. This process will be of further benefit if it was also used to reward compliant taxpayers with improved *ease of doing business* and tax compliance processes (similar to Gold Card).
- The FRCS should update its records for corporate taxpayers directly from the ROC database. The FRCS's current database is not automatically updated when there has been changes in directorship, which is registered with the ROC. As a result, requests for Tax Compliance Certificates are unnecessarily delayed due to non-compliance or tax outstanding by former directors.
- For manual lodgements, the FRCS should allow month-end deadlines that falls on a weekend to be lodged the next working day for all tax lodgements and payments. This practice is used by the Australian Tax Office. For example, if the month end falls on a Sunday, then the last day for lodgement should be the next working day, which is usually on the Monday.

7. Taxpayers' Charter and Tax Dispute Resolution Service

The establishment and promotion of the Taxpayers' Charter and the Associated Tax Dispute Resolution Service is long overdue. The proposed set up of a committee to review FRCS actions is yet to be made effective. This will provide taxpayers with an avenue to seek redress on their issues, but also more importantly set a benchmark for FRCS's service standards and practices.

8. Registrar of Companies

Awareness / Amnesty

With the introduction of the Fiji Companies Act (FCA) 2015, we suggest that more awareness sessions be carried out by the ROC and / or relevant Government agencies, in view of the new requirements, substantial new charges and penalties and other changes.

We also suggest that the Government consider an amnesty period to allow entities to update their statutory and compliance requirements without being penalised.

***Re-registration process***

Historically, the records/registers of Companies have not been updated on a timely basis when changes in directorships and shareholdings, etc are filed. As a result, company searches which are required, particularly when opening up bank accounts or for changes to signatories are delayed due to the records not updated.

We note and commend the Government for the move in to update the records of the ROC to include all existing companies and business names, via the re-registration process. We recommend that with this process, that the updating process by the ROC on an ongoing basis be reviewed and an improvement process implemented.

In addition to the above, we strongly recommend that the current online portal platform provided by the ROC be updated so that all of its features are accessible and company searches can be conducted online with electronic lodgements and payments.

We also suggest the following initiatives over the next few years:

- Titles Office – digitisation of the entire database so that related services including title searches can be conducted online.
- Department of Town and Country Planning – the application and approval processes need to be simplified and made efficient and robust with minimum turnaround time of five (5) working days.
- Immigration Department - digitisation of systems so that online applications and payments can be made.
- Town Councils – processes to be simplified and digitised so that online applications and payments can be made.

9. Public Sector Reform

We suggest the following:

- The FIA understands that Government revenue as a percentage of GDP has substantially reduced. We suggest that the Government assess any unproductive sectors within the various Ministries and take appropriate action to generate revenue from such sectors.
- Government should also consider implementing a shared services model for the Ministries as a means of reducing costs.
- Government should relook at strategies with regard to the notion of a private sector led economy and the efficiency and effectiveness of the use of resources.
- Continue to implement public sector reform measures to deliver efficient and effective services and enforce accountability in the public service.
- Review disciplinary procedures for civil servants to expedite the process.



10. Health Care

We acknowledge the Government's recent efforts in assisting in the prevention of the current spread of the COVID-19 pandemic through incentives such as zero-rating and zero-duty on certain medical items.

We are of the view that targeted efforts are required for further improvements to hospitals and health centres from both a capital and operating perspective. There have been continuous calls for improvement to our public health systems.

We suggest an increased investment in preventive health which must include early detection and education to tackle non-communicable diseases including cardiovascular diseases, obesity, and smoking. The FIA considers that such investment will substantially reduce the impact on our on-going limited medical resources.

The FIA also suggests that the government consider exploring a National Medical Scheme for all citizens of Fiji (similar to Medicare in Australia).

11. Education

Commitment to education should be continued. Given the current situation, Government should consider investing in satellite mode for remote education to ensure quality education is available to every child. The quality of the Fiji workforce is the key for transformation to a knowledge-based economy. The FIA considers that the government should ensure that our education and training bodies are sufficiently funded to support and train our workforce.

The focus must therefore be on investing in tomorrow's workforce, improving our management capability and encouraging lifelong learning. This will be achieved by improving the educational facilities, improving academic resources and introducing strategies and measures to develop a pool of qualified, skilled and competent teachers.

Improving the teacher to students' ratio could also improve the education standards.

12. Laws of Fiji

We note that Government has updated all legislation and the whole set of the Laws of Fiji is now available, but at a significant cost. This makes the updated laws inaccessible to the ordinary citizen of Fiji. Furthermore, the updated legislation will quickly become outdated as new amendments are introduced.

We suggest that the Laws of Fiji be made available and updated online to make it readily accessible and current at all times, as a public service to the citizens of Fiji.



13. Tax Ombudsman

As discussed in last year's submission, the taxpayer perception of a tax system is critical to ensuring voluntary compliance. Further to the setting up of FRCS's Objection Review Team, the appointment of an independent Tax Ombudsman could further provide assurances that there is an independent review available to taxpayers before the courts.

In most countries the Tax Ombudsman is seen as a critical role in providing an independent avenue for taxpayers to lodge complaints and seek an impartial review of tax office decisions.

Accordingly, the FIA considers that there is a need to create an independent body outside the jurisdiction of FRCS where taxpayers, particularly small and medium enterprises, could appeal to if they feel that they had been treated unfairly by FRCS, especially when many could not afford to go the legal route. We understand that there is a current proposed committee made up of professionals from the private sector that will be tasked to review FRCS actions and activities. It would have been preferred that the Tax Ombudsman take over this role.

The basic function of the office of Tax Ombudsman will be to diagnose, investigate, redress and rectify any unfair action and treatment, bias or prejudice or faulty procedures or unfair administration of the tax laws by FRCS, or speed up an action. This is not to detract from the current objection and appeal procedures against an assessment that the taxpayer believes is incorrect.

14. Judiciary

An efficient and independent judiciary is one of the critical factors for attracting investment.

Measures should be taken to further strengthen the judiciary to provide assurance to investors on the effectiveness of the judicial system and processes.