

GMS Flash Alert

2017-101 | June 9, 2017



Fiji – Recent Tax Developments

There have been several recent developments in Fiji that affect individuals – including international assignees – and their multinational employers, among which (1) the deadline until which employers will continue to enjoy a waiver of penalty on outstanding Fiji National Provident Fund contributions; (2) amendment of the definition of permanent establishment (PE), and (3) the tax authority’s “Data Cleansing Project” which requires taxpayers to complete and submit an information update form.

WHY THIS MATTERS

With respect to the penalty waiver issue for employers that have failed to properly deduct and remit their Fiji National Provident Fund contributions, once 1 July 2017 arrives, non-compliant employers will be subject to a financial penalty. It is important, therefore, to settle any outstanding contributions with the FNPF and take steps to maintain compliance.

International assignees and business travelers, as well as their employers, need to keep abreast of the changing rules around PE in Fiji. Getting caught by the PE rules could subject employers unnecessarily to tax and if found non-compliant, to penalties; they could also face reputational risk.

The completion of the update form (“Information Update Form for Salary / Wager earners / Sole Traders”) by individuals should be timely and accurate. This will enable the tax authority, FRCA, to update taxpayer records, and smooth the eventual access by the taxpayer to the Online Taxpayer Portal.

Fiji National Provident Fund and Waiver on Penalty for Employers

Fiji National Provident Fund (FNPF) issued a notice on 14 April 2017, to remind employers that they have only until 30 June 2017 to settle outstanding contributions to the FNPF, if any, for their employees before the waiver-of-penalty-period ends.¹

Thus, effective from 1 July 2017, a penalty of F\$100 per employee per month will come into effect and be levied on employers who pay contributions late (that is, after the due date).

General Reminder on Payment of Contributions and Submission of Contribution Schedule

The due date for the payment of the statutory contribution of 18 percent (10 percent by the employer and 8 percent by the employee) or any contribution in excess of the statutory contribution, is by the end of the month following the month of the deduction.

Employers are required to register and use the online portal to submit the Contribution Schedule (CS), which is available on the FNPF website: www.myfnpf.com.fj.

Payments can be made at a commercial bank or with the FNPF cashiers upon issuance of the invoice after the CS is successfully uploaded.

Change to Definition of Permanent Establishment

The definition of “*permanent establishment*” has been amended by deleting the word “fixed”, and now reads “*place of business through which the business of a person is wholly or partly carried on...*”, where previously it read “*fixed place of business through which the business of a person is wholly or partly carried on...*”²

Contractual Arrangements with Government/Interpretation (Section 2)

The following has been inserted after paragraph (g):

“but, notwithstanding the above, does not include the business of a person that enters into a contractual arrangement, including with respect to matters prescribed in paragraphs (a) to (g), solely with-

- (i) *The Government or*
- (ii) *Persons in which the Government has an interest,*

Where the Minister is satisfied that the contractual arrangement will contribute to an identifiable benefit to Fiji following an application made pursuant to section 7(5) and the Minister has notified the CEO in writing that such business is deemed not to be a permanent establishment under this Act;”

Section 7 – Sources in Fiji

There is new language that gives direction to individuals and businesses undertaking work for the Fijian government who wish to seek exemption from the PE provisions.

New subsection 5 is inserted which provides that “*For the purposes of the definition of “permanent establishment”, a person seeking for the person’s business to be deemed not to be a permanent establishment must –*

- (a) *Make an application in writing to the Minister;*
- (b) *Set out in the application the details of the contractual arrangement with the Government or persons in which the Government has an interest;*
- (c) *State in the application that the person will only enter into contractual arrangements with the Government or persons in which the Government has an interest;*

- (d) Outline in the application the benefit to Fiji of the contractual arrangement with the Government or persons in which the Government has an interest; and
- (e) Provide any further information or a declaration or undertaking as required by the Minister."
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KPMG NOTE

The broader definition of PE is motivated, in part, by the growing presence of overseas companies in Fiji and the need to bring clarity to the taxing authority in Fiji where overseas companies and their agents operating in Fiji are concerned.

Data Cleansing Project and Information Update Forms

Fiji Revenue and Customs Authority (FRCA) has issued a public notice in respect of a Data Cleansing Project currently being undertaken.³ We briefly highlight some of what is in the notice.

A Data Cleansing Project is being undertaken by FRCA in line with its strategy to modernize its systems and processes and to provide efficient taxpayer services through the introduction of an Online Taxpayer Portal. The Online Taxpayer Portal will enable online lodgments, payments, real-time updates, and access to tax information for taxpayers.

Prior to upgrading its systems, FRCA is verifying its current records for accuracy and completeness. Due to the large number of taxpayers on FRCA's records, data cleansing will be done in phases and will commence with companies that file taxes with FRCA. Authorized officers are required to complete the 2017 Information Update Form, affix the official company stamp, and return the completed form to FRCA by 30 June 2017, via delivery to any FRCA office or by e-mailing to the atacleansing@frca.org.fj.

A focus on individuals will follow. Copies of the respective forms for completion by individuals ("Information Update Form for Salary / Wager earners / Sole Traders") can be obtained by contacting your local Fiji tax professional. Also, enquiries can be directed to your nearest FRCA office or by e-mailing atacleansing@frca.org.fj.

FOOTNOTES

1 For additional information, see: <https://www.myfnpf.com.fj/media-centre/media-releases/793-penalty-waiver-for-employers-ends-30-june> .

2 The amendments were made to the Income Tax Act 2015, and were passed by Parliament on 23 March 2017, and was gazetted on – and came into effect from – 28 March 2017.

3 For additional information, see: <http://www.frca.org.fj/wp-content/uploads/2016/01/PUBLIC-NOTICE.pdf> .

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RELATED RESOURCE

This article is excerpted, with permission from *Flash report* (9 May 2017, Issue 11), *Flash report* (27 April 2017, Issue 10), and *Flash report* (20 April 2017, Issue 9), published by the KPMG International member firm in Fiji.

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