

[LEGAL NOTICE NO. 71]

INCOME TAX ACT 2015

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## **Income Tax (ICT Business Investment Incentives) Regulations 2024**

IN exercise of the powers conferred on me by section 25A of the Income Tax Act 2015, I hereby make these Regulations—

*Short title and commencement*

1.—(1) These Regulations may be cited as the Income Tax (ICT Business Investment Incentives) Regulations 2024.

(2) These Regulations are deemed to have come into force on 1 August 2024.

*Interpretation*

2.—(1) In these Regulations, unless the context otherwise requires—

“capital goods” means raw materials, capital equipment, plant, machinery, spare parts and any other goods employed in the production of other goods but does not include furniture or motor vehicles;

“company” means a company registered under the Companies Act 2015;

“final approval” means the approval granted by the Minister under regulation 8;

“ICT business” means services provided by businesses registered with the Business Process Outsourcing (BPO) Council of Fiji that engage in business process outsourcing, knowledge process outsourcing, information technology outsourcing and shared services/Global Business Services (GBS) but not including services relating to research and development and internet cafe or any retail or wholesale of information technology products or the repair, sale or service of any such products;

“ICT business investment incentive” means the duty exemption under regulation 5 and the exemption of tax on income under regulation 9 for an investment in ICT business on or after 1 August 2024;

“Minister” means the Minister responsible for finance;

“provisional approval” means the approval obtained before the commencement of a project as granted by the CEO under regulation 5; and

“project” means a project on or after 1 August 2024 for the establishment or development of an ICT business with an investment that meets the capital investment and minimum number of employees threshold provided under regulation 9.

(2) In relation to the services provided by an ICT business, unless the context otherwise requires—

“business process outsourcing” refers to providing core business support operations such as contact centres, accounting, payment processing, human resources, regulatory compliance, and quality assurance and includes customer-related services such as tech support, sales, and marketing;

“information technology (IT) outsourcing” refers to providing third party IT related services such as infrastructure solutions, technical customer service support, and data analytics;

“knowledge process outsourcing” refers to providing specific knowledge based business task or function which require specialised skills and expertise such as engineering, financial consulting and auditing, legal work and data analytics; and

“Global Business Services (GBS)” refers to the provision of centralised functions such as Finance operations, Human Resource Management, including Payroll, Procurement, Engineering, Master data, Compliance, IT and Legal.

*Provisional approval*

3.—(1) Subject to subregulation (2), a company (“applicant”) may apply in writing to the CEO for provisional approval of the proposed project.

(2) An applicant that wishes to apply for provisional approval must register as a member of Outsource Fiji.

(3) Provisional approval must be obtained before the commencement of the proposed project in order to be eligible for the ICT business investment incentive.

*Application for provisional approval*

4. An application for provisional approval must set out and be supported by the following—

- (a) the name and registered office of the company;
- (b) the names of all directors and shareholders of the company, including the percentage of ownership of shares in the company;
- (c) a current statement of all assets and liabilities of the company;
- (d) the location and description of the proposed project;
- (e) a sketch plan showing the project;
- (f) the estimated cost of the project;
- (g) if the project is to be carried out in stages, a description and the estimated cost, of each stage and details of the proposed timetable;
- (h) evidence of the company’s ability to undertake the project;
- (i) details of the proposed method of financing the project;
- (j) estimates of the projected income from the project; and
- (k) any other information the CEO may require.

*Power to approve applications*

5.—(1) The CEO may—

- (a) reject the application;
- (b) approve the application, with or without any condition; or
- (c) approve part of the application, with or without any condition, and reject other parts of the application.

(2) The CEO must take into account the following matters when determining an application under subregulation (1)—

- (a) the ability of the applicant to undertake the project;
- (b) the assets and liabilities of the applicant;
- (c) the nature and extent of the project;
- (d) the potential contribution of the project to the economy; and
- (e) such other matters the CEO may consider relevant to the desirability of the project and the capability of the applicant to complete it.

(3) An applicant whose application has been rejected, including a partially rejected application, may—

- (a) make a new application to the CEO;
- (b) amend and resubmit the original application to the CEO; or
- (c) appeal the decision of the CEO to the Minister.

*Effect of provisional approval*

6.—(1) When provisional approval is granted, all capital goods, imported by or on behalf of the applicant and used in the carrying out of the project, are exempt from all duties payable in respect of their importation under concession code 303 of Schedule 2 to the Customs Tariff Act 1986.

(2) Before capital goods are imported by the applicant, it is a condition of importation that the applicant must first provide proof that such goods cannot be produced locally to the satisfaction of the CEO, who decides whether such goods are to be imported.

(3) Nothing in this regulation applies to any tax payable under the Value Added Tax Act 1991.

*Completion of project*

7. An applicant that has been granted provisional approval must complete the project within 24 months from the date on which the provisional approval was granted.

*Extension of time for completion*

8.—(1) If a company to which provisional approval has been granted is unable to complete the project within the period provided in regulation 7 due to unforeseen circumstances or some other act or circumstances beyond the control of the company, the company may apply in writing to the Minister to extend the time by which the project must be completed.

(2) The application must be made within 30 days before the end of the time period provided in regulation 7.

(3) If the Minister extends the time under subregulation (1), the company continues to enjoy the duty free concession provided by regulation 6 during the extended period.

*Application for final approval*

9.—(1) Where an applicant has been granted provisional approval and has completed the project, the applicant may apply to the Minister for final approval.

(2) An application for final approval must be made in writing and be supported by the following—

- (a) copies of invoices and a schedule of expenditure relating to the project;
- (b) an approved plan showing the site, layout and surrounding areas of the project; and
- (c) if applicable, a certificate of completion and permit to occupy issued by a building surveyor in accordance with the Public Health (Building) Regulations 1959.

*Final approval*

10.—(1) An application for final approval may only be granted if—

- (a) the applicant produces the documents required under regulation 9(2), and the Minister is satisfied that the documents confirm the matters to which they relate;
- (b) the Minister is satisfied that the applicant has in all respects completed the requirements of the project; and
- (c) the project is fully completed.

(2) The CEO must notify the applicant in writing of the decision of the Minister made under subregulation (1).

*Effect of final approval*

11.—(1) Subject to subregulation (2), from the first day of commercial operations of the ICT business or such other date as the Minister may specify, final approval entitles a company to the following tax exemption on the income from the ICT business based on capital investment and minimum number of employees as follows—

- (a) in the case of a capital investment from \$100,000 to \$250,000 and a minimum of 25 employees, for a period of 5 consecutive fiscal years;
- (b) in the case of a capital investment from \$250,001 to \$500,000 and a minimum of 50 employees, for a period of 7 consecutive fiscal years;
- (c) in the case of a capital investment from \$500,001 to \$1000,000 and a minimum of 75 employees, for a period of 10 consecutive fiscal years; or
- (d) in the case of a capital investment greater than \$1000,000 and a minimum of 100 employees, for a period of 13 consecutive fiscal years.

(2) The following conditions must be maintained throughout the life of the ICT business investment incentive in order to continue benefiting from the tax exemption granted for the period which the ICT business qualifies for under subregulation (1)—

- (a) the ICT business must employ an adequate number of full-time employees, in any case not less than 70% of its total employees, who possess the required qualifications and skills to perform its core income-generating activities in Fiji;
- (b) the ICT business must incur an adequate amount of operating expenditures, in any case not less than 60% of its overall expenditures, to carry out its core income-generating activities in Fiji; and
- (c) the ICT business must meet the substantial activities requirements based on the core income-generating activities principle, and will be subject to annual monitoring.

(3) For the purposes of this regulation, “core income-generating activities” refers to the essential activities of the ICT business in Fiji that generates income and mainly consists of those significant functions that drive the business value.

*Revocation of ICT business investment incentive*

12. The Minister may revoke the ICT business investment incentive if the applicant—

- (a) breaches any condition of provisional or final approval;
- (b) fails to comply with any of the requirements of these Regulations; or
- (c) is convicted of an offence under any written law relating to taxation, customs or excise,

and any tax or duty foregone is payable.

*Transferability of package*

13. If the company in respect of which an ICT business investment incentive package has been granted is sold or is to be sold, the purchaser or prospective purchaser may apply in writing to the Minister for the transfer to it of any remaining benefits of the ICT business investment incentive.

*Specification of particular requirements*

14. The Minister may prescribe particular requirements under these Regulations applicable to any particular area of Fiji.

Made this 9th day of August 2024.

B. C. PRASAD  
Deputy Prime Minister and  
Minister for Finance