

[LEGAL NOTICE NO. 72]

INCOME TAX ACT 2015

Income Tax (Government Building Investment Incentives) Regulations 2020

In exercise of the powers conferred on me by section 142 of the Income Tax Act 2015, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) These Regulations may be cited as the Income Tax (Government Building Investment Incentives) Regulations 2020.

(2) These Regulations are deemed to have come into force on 1 August 2020.

Interpretation

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

“applicant” means a person who applies for provisional approval under Part 2;

“application” means an application for provisional approval under Part 2;

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

“final approval” means the approval granted by the Minister under regulation 7;

“Minister” means the Minister responsible for finance;

“project” means a project on or after 1 August 2020 for the establishment, including the construction, renovation or refurbishment, of a building to be used by the Government or an entity approved by the Government;

“provisional approval” means the approval granted by the Minister under regulation 4; and

“Government building investment incentive” means the exemption of income tax on rent derived from the lease of a building to the Government or an entity approved by the Government.

PART 2—GOVERNMENT BUILDING INVESTMENT INCENTIVE

Power to approve applications

3.—(1) The Minister 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 Minister must take into account the following matters when determining an application under subregulation (1)—

- (a) the assets and liabilities of the applicant;
- (b) the nature and extent of the project;
- (c) evidence that the Government or an entity approved by the Government has given the applicant a written undertaking to use the building on completion of the project; and
- (d) such other matters the Minister may consider relevant to the desirability of the project and the capability of the applicant to complete it.

(3) The decision of the Minister under this regulation is final.

(4) Notwithstanding subregulation (3), a person whose application, including a partially rejected application, has been rejected may make a new application or amend and resubmit the original application.

Application for provisional approval

4. A person wishing to carry out a project may apply in writing to the Minister for provisional approval of the proposed project, and the application must set out the following matters—

- (a) the name and details of the person;
- (b) a current statement of all assets and liabilities of the person;
- (c) the location and description of the proposed building site;
- (d) a sketch showing the project;
- (e) the estimated cost of the project;
- (f) 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;
- (g) evidence of the person's ability to undertake the project;
- (h) details of the proposed method of financing the project;
- (i) estimates of the projected rental income of the person;
- (j) evidence that the Government or an entity approved by the Government has given the person a written undertaking to use the building on completion of the project; and
- (k) any other information the Minister may require.

Effect of provisional approval

5.—(1) When a provisional approval is granted, all capital goods, imported by or on behalf of the applicant and used in the carrying out of the project, is exempt from all duties payable in respect of their importation.

(2) Before capital goods are allowed to be 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 Minister, 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

6.—(1) Any applicant who has been granted provisional approval must complete the project in accordance with the terms agreed to by the applicant and the Government or entity approved by the Government.

(2) Subject to the other provisions of this regulation, where an applicant has been granted provisional approval and has completed the project, the applicant may apply to the Minister for final approval.

(3) An application under subregulation (2) must be made in writing and supported by the following—

- (a) fully audited final accounts showing the total cost of the project;
- (b) a final plan showing the site, layout and surrounding areas of the project; and
- (c) a certificate of completion and permit to occupy issued by a building surveyor in accordance with the Public Health (Building) Regulations 1959, as applicable.

(4) Subject to regulation 7, the Minister must refuse to grant final approval if the applicant has failed to complete the project or has failed to comply with any condition upon which provisional approval was granted.

Final approval if completed

7.—(1) An application for final approval must not be granted unless—

- (a) the Minister is satisfied that the applicant has in all respects completed the requirements of the project; and
- (b) the project is fully completed.

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

Effect of final approval

8. If the Minister grants final approval, the rental income derived from the lease of the building to the Government or entity approved by the Government is to be exempt from income tax.

Application of the Government building investment incentive

9. If the Minister has granted a provisional or final approval in relation to a project, the applicant is only entitled to the Government building investment incentive if the building is rented to the Government or an entity approved by the Government.

Revocation of Government building investment incentive

10. The Minister may revoke the Government building investment incentive if the applicant has—

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

Specification of particular requirements

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

Made this 5th day of August 2020.

A. SAYED-KHAIYUM
Attorney-General and Minister for Economy