

Transfer Pricing Documentation

9 February 2023

In brief

This Bulletin includes brief details in relation to the following:

- The Public Notice issued by the Fiji Revenue and Customs Service (**FRCS**) in relation to Transfer Pricing documentation requirements.
- Some additional details in the (Transfer Pricing) Regulations 2021 in relation to maintaining transfer pricing requirements.
- Proposed new requirements to disclose additional details in the income tax return in relation to transactions with associates / related parties.

In detail

1. FRCS Public Notice

The Fiji Revenue and Customs Service (**FRCS**) has issued a Public Notice (copy attached) reminding all Fijian companies and businesses, including parent companies, branches, subsidiaries and permanent establishments that are members of a Multinational Enterprise (**MNE**) or are businesses that engage in cross border transactions with related overseas companies or businesses, that it is a requirement to maintain appropriate transfer pricing documentation.

The requirements to maintain appropriate transfer pricing documentation are included in the Income Tax (Transfer Pricing) Regulations 2012.

2. Income Tax (Transfer Pricing) Regulations 2012

The Income Tax (Transfer Pricing) Regulations 2012 indicate the following in relation to maintaining transfer pricing documentation:

- A Fiji entity must record in writing, sufficient information and analysis to verify that its controlled transactions with foreign entities (i.e. transactions between associates) are consistent with the arm's length principle.
- The transfer pricing documentation for transactions undertaken in a tax year must be in place prior to the due date for filing the income tax return for that year.

- The Chief Executive Officer of the FRCS may, by notice, specify the items of documentation that a person is required to keep.
- A person who fails to comply with the requirement to maintain appropriate transfer pricing documentation commits an offence and is liable upon conviction to a fine of not less than \$100,000.

Further details are provided in the Transfer Pricing Guidelines issued by the FRCS.

3. Proposed new requirements disclosure requirements

We understand that there may be some new requirements to disclose certain details in relation to transactions with associates and related parties as part of the income tax return for the 2022 and subsequent tax years.

The new requirements are expected to be released by the FRCS with the roll out of the 2022 Corporate Income Tax form on the Taxpayer Online Service Portal.

Let's talk

Please contact any of our following Partners or Directors, if you wish to discuss how the above or any other matters may impact your business.



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PUBLIC NOTICE

TRANSFER PRICING DOCUMENTATION

FRCS wishes to advise all Fijian companies and businesses including parent, branches, subsidiaries, and permanent establishments that are members of a Multinational Enterprise (MNE) economic group or are businesses that engage in cross border transactions with related overseas companies or businesses, that it is a requirement to maintain Transfer Pricing documentation. Regulation 9 of the Income Tax (Transfer Pricing) Regulations 2012 states:

- (1) A person must record, in writing, sufficient information and analysis to verify that its controlled transactions are consistent with the arm's length principle.*
- (2) The documentation referred to in sub-regulation (1) for transactions undertaken in a tax year must be in place prior to the due date for filing the income tax return for that year.*
- (3) The Chief Executive Officer may, by notice, specify the items of documentation that a person is required to keep for the purposes of this regulation.*
- (4) A person who fails to comply with this regulation commits an offence and is liable upon conviction to a fine not less than \$100,000.*

The Transfer Pricing documentation should be prepared in accordance with the Organization for Economic Cooperation and Development (OECD) Guidelines, Fiji Income Tax legislation and the FRCS Transfer Pricing Guidelines.

FRCS is advising all Fijian companies that are members of MNEs or Fijian businesses that engage in cross border transactions that it is a statutory requirement to prepare and have available their Transfer Pricing documentation at the time of lodgment of their income tax return. We expect a high standard of compliance from MNEs. Regulation 9(4) as stated above may be applied if the Transfer Pricing documentation is not available upon request by the FRCS.

The Transfer Pricing Regulations and Transfer Pricing Guidelines can be accessed on these links <https://www.frsc.org.fj/wp-content/uploads/2020/01/Regulations-2012.pdf> and <https://www.frsc.org.fj/wp-content/uploads/2023/01/Transfer-Pricing-Guidelines.pdf>

Should you require further assistance or clarification, please email the Transfer Pricing Team: transferpricing@frsc.org.fj.

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CHIEF EXECUTIVE OFFICER
6th February 2023