



STANDARD INTERPRETATION GUIDELINE 2020-19

INCOME TAX ACT 2015 – CO-OPERATIVES

This Standard Interpretation Guideline (“SIG”) sets out Fiji Revenue and Customs Service’s (“FRCS”) policy and operational practice in relation to the tax implication on Co-operatives

It is issued with the authority of the Chief Executive Officer (“CEO”) of FRCS.

All legislative references in this SIG are to the Income Tax Act 2015, Income Tax (Exempt Income) Regulations 2016, Co-operatives Act 1996, unless otherwise stated.

This SIG is in effect from 31 July 2020 and may need to be reviewed in the event of any relevant legislative amendments.

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PURPOSE

1. The purpose of this Standard Interpretation Guideline (SIG) is to provide CEO's interpretation and application on the taxation of Co-operatives.
2. This SIG aims to provide clarity and consistency on correct application of legislative provisions relating to taxation of Co-operatives. since it has been noted that a significant number of co-operatives have been evolving in various business ventures.

INTRODUCTION

3. Co-operative society is an association or group of persons coming together to provide services to its shareholders or members who own and control it.
4. In Fiji, the co-operative societies are registered either under the Co-operatives Act 1996 or Co-operatives Dairy Companies Act 1974 as applicable.
5. The membership of a co-operative society is voluntary. Membership is based on common goals and needs.
6. A co-operative society has a separate legal identity. It can enter into contracts, hold property in its name, sue and be sued by others.
7. The liability of the members of a cooperative society is limited to the extent of the amount of capital contributed by them.
8. The members of the primary co-operative have the right to vote (each member has one vote, regardless of the number of shares held by him or her in the co-operative) to elect the members of the managing committee. The elected managing committee have the power to make decisions.
9. Some of the common forms of support from the government which the co-operative society gets to benefit is in the form of:
 - a) Tax exemptions;
 - b) Subsidies; and
 - c) Low interest rates on loans.
10. Co-operative societies may be classified in various categories based on the nature of activities undertaken. Some of the common types of co-operative societies are:
 - a) consumers' co-operatives;
 - b) producers' co-operatives;
 - c) marketing co-operatives;
 - d) housing co-operatives;
 - e) credit co-operatives;
 - f) co-operative farming societies;
 - g) processing co-operatives; and
 - h) labour and construction co-operatives and others.

11. **Consumers' co-operatives** are formed by ordinary people in order to obtain their day-to-day requirements of goods at cheaper prices. Hence, consumers' co-operative stores are organized by such societies, whereby it makes bulk purchases from wholesalers at wholesale rates and sells the goods to members (sometimes also to non-members) at the minimum retail price. The main aim is to eliminate the middlemen. The profit, if any, are distributed according to the societies by-laws.
12. **Producers' co-operative** societies are also known as industrial co-operatives. These societies are voluntary associations of small producers formed with the objective of eliminating big capitalists and enhancing the bargaining power of the small producers. Sometimes consumers' co-operatives may join with producers' co-operatives. In such instances societies of this type is known as 'co-partnership societies'.

Such societies produce goods to meet the requirements of consumers. Sometimes the produce may be disposed of to outsiders at a profit.
13. **Marketing co-operatives** or also known as co-operative sales societies are voluntary associations of independent producers who desire to sell their produce through one centralized agency. The members consist of producers who wish to obtain reasonable prices for their output. The production of different members is pooled and the society undertakes to sell these products by eliminating middlemen. These societies also perform marketing functions like transportation, warehousing, packaging, etc., to sell the output at the best
14. **Housing co-operative** societies are generally formed in urban areas due to acute housing problems by people belonging to middle and lower income groups who are desirous of owning a flat or a plot for construction of their own house. This society works in two ways:
 - a) The society purchases the land and sells off the plot to the members for the construction of their houses.
 - b) The society constructs either the houses or apartments for the members, who are allowed to pay in installments.
15. **Credit co-operatives** are formed to provide short-term financial assistance to the members in the form of loans at low interest from the amount collected as capital and deposits from the members. The aim of such societies is to protect its members from money lenders who charge high rates of interest on loans. The profit earned from the interest is distributed amongst the members.
16. **Farmers' co-operatives** also known as agricultural co-operative society are formed by farmers who jointly take up farming activities in order to gain the benefits of large-scale farming and higher productivity. These societies are established to protect the interests of farmers by providing better inputs at a reasonable cost. The members are provided with better quality seeds, fertilisers, machinery and other modern techniques for use in the cultivation of crops.
17. **Processing co-operatives** are generally established in rural areas with the aim of processing certain raw materials produced by farmers to manufacturers.
18. **Labour and construction co-operatives** are made up of unskilled and semi-skilled workers in rural areas for the purpose of carrying out building construction or other such projects. The principal objective is to gradually reduce the importance of contractors.

19. In this SIG, any reference to the term “Minister” is a reference to the Minister responsible for Economy.

LEGISLATIVE ANALYSIS

Co-operatives Act (CA) 1996

20. Co-operatives Act 1996 is one of the legislative frameworks through which a co-operative society is registered in Fiji.
21. A co-operative society is registered under the provisions of section 11 of CA 1996. An application for the registration of a co-operative society has to be submitted to the Registrar of Co-operatives.
22. A co-operative society can be registered either as a **primary co-operative**, a **secondary co-operative**, an **apex organization** or the **National Co-operative Federation**.
23. CA 1996 defines **co-operatives** as an association of voluntarily joined persons making coming together to achieve a common goal via formation of a democratically controlled organization, whereby equitable contributions are made to the required capital. The members willingly accept a fair share of risks and benefits associated with the co-operative entity which is provisionally or fully registered as discussed in paragraph 22.
24. An **apex organization** is a registered co-operative under CA 1996. Two or more primary or secondary co-operatives may form an apex organization. It is established to facilitate the operations of all co-operatives of a particular type provided it represents at least seventy-five (75) per cent of the total number of co-operatives of that type in the country.
25. An **association** is defined as body of persons registered or incorporated under any written law (**other** than the Companies Act) and includes a combination of two (2) or more such bodies.
26. **Member** means an **individual person, registered co-operative** or **association** joining in the application for the registration of a co-operative, and a person, registered co-operative or association admitted to membership of a co-operative after registration as per the provisions within CA and the by-laws of the co-operative.
27. **National Co-operative Federation** is a co-operative established under section 47 to represent the interest and welfare of all types of co-operatives at national level.
28. **Primary co-operatives** are a registered co-operatives consisting of at least ten (10) individual persons or associations or both individual persons and associations as members.
29. **Secondary co-operatives** are a registered co-operatives consisting of at least two (2) primary co-operatives and, subject to the approval of the Registrar, individual persons as members. The objective of secondary co-operatives is to facilitate the operations of its member co-operatives.

Objectives of a Co-operative

30. The aim of a co-operative society is to promote the economic and social interests of its members by providing effective services which the members need and can make use of.¹
31. The main purpose of a co-operative is service to its members and not profit maximization.

Membership in Co-operatives

32. In order to qualify for membership in a primary co-operative, a person has to meet the following conditions:
- a) he or she is at least eighteen (18) years of age except in the case of a school co-operative the minimum age shall be fourteen (14) years;
 - b) Is a citizen or resident of Fiji; and
 - c) He or she satisfies such other requirements with regard to residence, employment, profession or any other matter as may be prescribed in the by-laws of the co-operative.
33. In the case of an association seeking membership of a primary co-operative, it will have to satisfy all requirements as may be prescribed in the by-laws of such co-operative.
34. Any co-operative seeking membership in a secondary co-operative, any apex organization and the National Co-operative Federation have to satisfy all requirements as prescribed in the by-laws of such co-operative.

Tax Treatment of Co-operatives

35. Section 36 of the Co-operatives Act 1996 states that the Income Tax Act provides for the taxation of co-operatives registered under CA 1996.

Income Tax Act (ITA) 2015

36. The term “Company” is defined broadly in section 2 of ITA 2015 and is relevant to a number of provisions in the Act which refer to a company and is not limited to an incorporated body only.
37. Paragraph (a) of section 2 includes a “*a body or association of persons corporate or unincorporated....*”. A body or association of persons will be a company for the purposes of the Act whether incorporated, created or formed under the Fijian law or elsewhere. The inclusion of unincorporated bodies or associations of persons in the definition means that entities such as co-operatives are treated as companies for the purposes of the ITA 2015.
38. A company is liable for tax separately from its members². “Member” is defined in section 2 of ITA 2015 as a person that has a membership interest in the company.
39. Membership interest in relation to a company means an ownership interest in the company.³ Similarly, a membership interest in relation to a co-operative means ownership interest in that co-operative.

¹ Section 4(1), Co-operatives Act 1996

² Section 58, Income Tax Act 2015

³ Section 2, Income Tax Act 2015

Income Tax Act 2015 - Income Tax (Exempt Income) Regulations 2016 (Regulation 3) Exempt Income

40. In certain circumstances, income of a cooperative may be exempt for income tax purposes as provided under Income Tax (Exempt Income) Regulations 2016 - Part 2 and Part 9, discussed herein below.

Part 2 Exempt Entities

Standard Co-operative

41. A co-operative will only be accepted as a legal entity if it has been registered as a co-operative society under the Co-operatives Act 1996⁴.
42. The co-operative's income **will only be treated as exempt income** if the Minister declares this provision via an order⁵. The co-operative will have to make a submission to the Minister for an order.
43. The period of the exemption will be stated in the order. The **maximum** period of exemption will not exceed eight (8) years from the date of registration of the co-operative⁶.
44. The **date of the registration** of the co-operative will be as per the registration certificate issued by the Department of Co-operatives under the Co-operatives Act 1996.

Example (1)– A Registered Co-operative with an ‘order’

A group of ladies in Saqani village decided to form a co-operative store. They registered the co-operative with the Registrar of Co-operatives under the CA 1996 on 1st January 2018. The co-operative store did not commence business until 1st July 2019. The Secretary of the co-operative store enquired with FRCS on 31st January 2020 on the Income Tax implications of the co-operatives income for the year 2019. The co-operative store submitted an order, dated 31st December 2018 from the Minister of Finance confirming it being exempt for Income Tax purposes for eight (8) years from the date of registration.

Will the co-operative store's income be treated as exempt income?

CEO's position: Yes. The income of the co-operative will be treated as exempt income as per part 2(1) of the Income Tax Regulations 2016. The criteria for the exemption had been met.

Firstly, the co-operative store was registered as a co-operative under the CA 1996 and secondly the Minister had also declared the entity's (co-operative store's) income as exempt income for income tax purposes. The co-operative store's income will be treated as exempt income until tax exemption for the co-operative society expires, i.e. eight (8) from the date of registration of the co-operative store with the Department of Co-operatives, which will be 31st December 2025.

Example (2)– A Registered Co-operative without an ‘order’

A group of ladies in Jumanji village decided to form a co-operative store. They registered the co-operative with the Registrar of Co-operatives under the CA 1996 on 1st January 2018. The co-operative store did not commence business until 1st July 2019. The Secretary of the co-operative store enquired with FRCS on 31st January 2020 on the Income Tax implications of the co-operatives income for the

⁴ Part 2(1) Exempt Entities – Exempt Income (Regulation 3), Income Tax (Exempt Income) Regulations 2016

⁵ Part 2(1) Exempt Entities – Exempt Income (Regulation 3), Income Tax (Exempt Income) Regulations 2016

⁶ Part 2(1) Exempt Entities – Exempt Income (Regulation 3), Income Tax (Exempt Income) Regulations 2016

year 2019. The co-operative store confirmed that it didn't apply for an order to the Minister of Finance for the co-operative's income to be treated as exempt income.

Will the co-operative store's income be treated as exempt income?

CEO's position: No. The income of the co-operative will not be treated as exempt income as per **Part 2(1) of the Income Tax Regulations 2016**, since the criteria for the exemption had not been met. Even though the co-operative store was registered as a co-operative under the CA 1996, the Minister had not declared the entity's (co-operative store's) income as exempt income for income tax purposes. Therefore, the co-operative store's income will not be treated as exempt income and as such appropriate tax will be calculated on the Chargeable Income.

Subscription Based Co-operative (Credit Co-operative)

45. The exemption for registered co-operatives under this provision only applies, provided the **sole objectives** of the cooperative includes:
- a) accepting cash deposits from members;
 - b) accepting cash deposits from non-members; and
 - c) granting loans for productive purposes to members⁷.
46. The **exemption applies** to the co-operative's income derived from deposits (members and non-members) and carried to a reserved fund or capitalized⁸.
47. The exemption allowed under this provision is indefinite, i.e. the exemption doesn't have any concluding timeline.
48. The exemption **does not** apply to income which is derived from a trade or business activity carried out by the cooperative⁹.

Example (1) – A Registered Co-operative Receiving Deposits Only

Somosomo villagers registered a co-operative named 'Saqamoli' with Registrar of Co-operatives on 1st February 2019. Saqamoli has been collecting cash deposits from its members and non-members and has also been providing loans to its members. On 1st June 2019 Saqamoli approved loan of \$5,000 to one of its member Rambo. Rambo needed this loan so that he could buy some potato seedlings as well as other necessary farming implements and fertilisers. The committee members contacted FRCS office on 2nd June 2019 and enquired about the income tax implications on the acceptance of deposits and issuing of loans to its members.

What is the tax implication of Saqamoli accepting deposits from members and non-members?

CEO's position: The income (deposits collected from its members and non-members) of Saqamoli will be treated as exempt income as per **Part 2(2) of the Income Tax Regulations 2016** since the criteria for the exemption had been met, i.e. the sole objective of Saqamoli as per its by-laws is to accept cash

⁷ Part 2(2) Exempt Entities – Exempt Income (Regulation 3), Income Tax (Exempt Income) Regulations

⁸ Part 2(2) Exempt Entities – Exempt Income (Regulation 3), Income Tax (Exempt Income) Regulations

⁹ Part 2(2) Exempt Entities – Exempt Income (Regulation 3), Income Tax (Exempt Income) Regulations

deposits from members and non-members and to assist its members by providing them with loan for productive purposes.

What is the validity of Income Tax exemption?

CEO's position: Indefinite, i.e. there is no concluding timeline on the exemption provision outlined in paragraph 46 above. The validity of the exemption on registered co-operatives with the objectives as stated in paragraph 45 is indefinite since the co-operative isn't engaged in any business or taxable activity. Furthermore, the income from the deposits is carried to the reserved fund or capitalized which enables the co-operative to easily grant loans to its members to carry out productive activities.

Example (2) – A Registered Co-operative Receiving Deposits as Well as Engaged in a Taxable Activity

Somosomo villagers registered a co-operative named 'Saqamoli Co-operative Ltd' with Registrar of Co-operatives on 1st February 2019. Saqamoli Co-operative Ltd's sole objective in its by-laws stated that it will only accept cash deposits from its members and non-members and it will also grant loans to its members for any productive purposes. On 1st June 2019, Saqamoli Co-operative Ltd also opened a co-operative store in the village since the nearest store was three (3) Kilometers away. The committee members contacted FRCS office on 2nd January 2020 and enquired about the income tax implications on the co-operative's income from the receipt of cash deposits from members and non-members as well as the income from the income from the store.

Will Saqamoli Co-operative Ltd qualify for exemption on the income collected from deposits and the store?

CEO's position:

(i) **Income from Deposits:** Yes, but **only** up to the amount of income which had been collected by Saqamoli Co-operative Ltd as deposits from the members and non-members. This income will be treated as exempt income as per **Part 2(2) of the Income Tax Regulations 2016**.

(ii) **Income from co-operative store:** No, the **income** from the co-operative store is **not an exempt income**, hence appropriate tax will be calculated on the Chargeable Income.

What is the validity of Income Tax exemption?

CEO's position: Indefinite tax exemption will be applicable **only** on the income received through the deposits from members and non-members.

However, any **income generated from the co-operative store** will not be treated as exempt income and as such this income **will be subject to income tax**.

Government Assisted Co-operative

49. Income of a co-operative society registered under the Co-operatives Act 1996 is exempt, **provided** it is assisted by the Government for any project.¹⁰

¹⁰ Part 2(2A) Exempt Entities – Exempt Income (Regulation 3), Income Tax (Exempt Income) Regulations 2016

50. It is important to note that in order to avail the exemption under Part 2(2A) of the Regulation, the government assistance for any project **must be related to the activities** of the co-operative.

For instance, if the cooperative is engaged in agricultural farming, then the government assistance must be directed towards the farming project only and not for other purposes.

51. The exemption is **applicable** for a maximum of **five (5) years** from the date of the assistance¹¹.

52. Any co-operative which was exempted under Part 2 (1) can also qualify under paragraph 49.

Example (1) – A Registered Co-operative in Receipt of Government Assistance

A group of youths in Saqani village decided to form an agricultural farming co-operative. The farming co-operative, named 'Fresh Produce Co-operative Ltd' was registered with the Registrar of Co-operatives under the CA 1996 on 8st January 2019. Fresh Produce Co-operative Ltd wrote to Prime Minister's Office on 15th January 2019 for government assistance. On 1st April 2019, the co-operative received a government grant at the value of \$10,000, which accounted for a cash grant of \$2,000, farming implements and fertilisers to the value of \$4,000 and dalo seedlings to the value of \$4,000. The co-operative harvested the dalo in 2019 to the value of \$50,000.

What is the tax implication on the co-operative's income of \$50,000 (from the sale of dalo)?

CEO's position: The income generated from the sale of the dalo is an exempt income. The exemption will be valid for five (5) years from the date of assistance, that is from 2019 to 2023.

Example (2) – A Registered Co-operative in Receipt of Government Assistance carrying on Agricultural Activity

A group of youths in Saqani village decided to form an agricultural farming co-operative. The farming co-operative, named 'Fresh Produce Co-operative Ltd' was registered with the Registrar of Co-operatives under the CA 1996 on 8st January 2019. Fresh Produce Co-operative Ltd has been selling dalo for export to an exporter from 2019. The co-operative wrote to the Prime Minister's Office on 15th January 2019 for government assistance in building a jetty in the village. On 1st April 2019, the co-operative received a government grant at the value of \$10,000. The co-operative used the grant and completed the jetty on 1st June 2019, which was officiated by Prime Minister. Mooring (docking) fee of \$5 per hour is charged by the co-operative to the boats, such as Fishing boats, Bowrider boats, Houseboats, Deck boats and Dinghy boats for the use of the jetty.

What is the tax implication on the co-operative's income from the sale of dalo and the mooring fees?

CEO's position: The income generated from the sale of the dalo and the mooring fee is taxable. Fresh Produce Co-operative Ltd **does not qualify** for the exemption under the provisions of **Part 2 (2A) of the Income Tax (Exempt Income) Regulations 2016**, since the co-operative was registered as a

¹¹ Part 2(2A) Exempt Entities – Exempt Income (Regulation 3), Income Tax (Exempt Income) Regulations

farming co-operative but applied and received grant for the construction of jetty and was deriving income from it as mooring fees.

However, if Fresh Produce Co-operative Ltd had sought assistance from the government for any agricultural project and assuming if it had been approved then any income generated from the farming activity would have qualified for exemption under **Part 2(2A) of the Income Tax (Exempt Income) Regulations 2016** for up to five (5) years from the date of the government assistance.

Example (3) – A Registered Co-operative with an ‘Order’ in Receipt of Government Assistance

A group of ladies in Saqani village decided to form a co-operative store. They registered the co-operative with the Registrar of Co-operatives under the CA 1996 on 21st January 2018. The co-operative store did not commence business until 1st July 2019. The co-operative store received an order, dated 31st December 2018 from the Minister of Finance confirming it being exempt for Income Tax purposes for eight (8) years from the date of registration. The co-operative received government grant of \$15,000 for the commencement of the co-operative store on 1st June 2019.

Will the co-operative store’s income be treated as exempt income?

CEO’s position: Yes. The income of the co-operative will be treated as exempt income as per **Part 2(1) of the Income Tax Regulations 2016**. The criteria for the exemption had been met. Firstly, the co-operative store was registered as a co-operative under the CA 1996 and secondly the Minister had also declared the entity’s (co-operative store’s) income as exempt income for income tax purposes.

The co-operative store’s income will be treated as exempt income until tax exemption for the co-operative society expires, i.e. eight (8) years from the date of registration of the co-operative store with the Department of Co-operatives, which will be, 31st December 2025.

In addition to the above exemption, the co-operative also qualifies for exemption of five (5) years under the provision of **Part 2(2A) Income Tax (Exempt Income) Regulations 2016**, whereby the co-operative had received Government assistance for the operation of the co-operative store. The exemption under this provision will be valid until 1st June 2023. The exemption under part 2(1) and part 2 (2A) will be in concurrent to each other. Therefore, the Income Tax exemption will end on 31st December 2025.

Part 9 - Economic Development Exemptions

53. Income of a co-operative dairy company incorporated in Fiji and registered under the provisions of the Co-operative Dairy Companies Act 1974 is exempt income¹².

54. The exemption to the co-operative’s income is only **limited** to the income derived from the **collection, treatment or manufacture** and **distribution** of dairy produce from milk or cream **supplied by shareholders**.

¹² Part 9(2) – Economic Development Exemptions, (Regulation 3)-Exempt Income, Income Tax (Exempt Income) Regulations 2016

55. If the co-operative decides to procure dairy produce from non-shareholders, then the income derived from these produce will not be subject to the exemption.
56. The exemption of income also applies to the **investment** of any surplus funds from the activities mentioned in paragraph 54 **provided** it is not distributed to the shareholders of the co-operative but kept as retained earnings¹³.
57. In instances, where the profits or surplus funds of the dairy co-operative is distributed to its shareholders, then the distributed sum will be taxed in the hands of the dairy cooperative.

Example (1) - Dairy Co-operative Operating from the Procurement of Dairy Produce from Members Only

ZZZ Dairy Co-operative Ltd's income is derived from the collection, treatment/ manufacture and distribution of dairy produce from the milk/ cream supplied by its members only. The surplus fund of the co-operative is not distributed to the members but kept as retained earnings.

What is the tax treatment of ZZZ Dairy Co-operative Ltd?

CEO's position: The income of ZZZ Dairy Co-operative Ltd is exempt from income tax since the source of the dairy co-operative's income is only from the collection, treatment or manufacture and distribution of dairy produce from milk/cream obtained from its shareholders.

Example (2) - Dairy Co-operative Operating from the Procurement of Dairy Produce from Members and Non-Members

ZZZ Dairy Co-operative Ltd's income is derived from the collection, treatment/ manufacture and distribution of dairy produce from the milk/ cream supplied by its members and non-members. ZZZ Dairy Co-operative Ltd buys thirty (30) per cent of the dairy produce from New Zealand (non-members).

What is the tax treatment of ZZZ Dairy Co-operative Ltd?

CEO's position: 70 (seventy) per cent of ZZZ Dairy Co-operative Ltd's income is exempt from income tax since the source of the dairy co-operative's income is from the collection, treatment or manufacture and distribution of dairy produce from milk/cream obtained from its shareholders. thirty (30) per cent of its income will be subject to income tax since the procurement of the dairy produce of this ratio was obtained from non-members based in New Zealand.

58. For further information and clarification in regard to this SIG, please email us at tipu@frcs.org.fj.

¹³ Part 9(2) – Economic Development Exemptions, (Regulation 3)-Exempt Income, Income Tax (Exempt Income) Regulations 2016

APPENDIX: LEGISLATION

Income Tax Act 2015

Section 2 – Interpretation

company

means—

- a) a body or association of persons corporate or unincorporated, including a statutory corporation and a company created by charter, but not including a partnership;
- b) a foreign association of persons, other than a partnership, that the CEO has declared to be a company for the purposes of this Act; or
- c) a trust approved as a managed investment scheme under the Companies Act 2015 and includes a unit trust to which section 743 of the Companies Act 2015 applies;

member

in relation to a company, means a person that has a membership interest in the company, including a shareholder or a holder of an interest in a trust referred to in paragraph (c) of the definition of “company”;

[Section 58] Principle of Taxation for Companies

A company is liable for tax separately from its members.

Legal Notice No. 2 – Income Tax Act 2015
Income Tax (Exempt Income) Regulations 2016

PART 2—EXEMPT ENTITIES

The income of the following entities is exempt income—

- (1) A co-operative society registered under the Co-operatives Act 1996 if the Minister has declared by order, to be exempt income. The period of the exemption shall be as specified in the order but shall not exceed 8 years from the date of registration as a co-operative society.
- (2) A society registered under the Co-operatives Act 1996, whose sole objects are accepting deposits from members and non-members, and granting loans for productive purposes to members but not including income derived from a trade or business carried on by the society. The exemption applies on income derived by a co-operative society and carried to a reserve fund or capitalised.

“(2A) A society registered under the Co-operatives Act 1996 that is assisted by the Government for any project but the exemption shall not exceed 5 years from the date of the assistance.”; and

Part 9 – Economic Development Exemptions

- (2) The income of a co-operative dairy company incorporated in Fiji and registered under the provisions of the Co-operative Dairy Companies Act (Cap. 119) is exempt income in so far only as it is derived from the collection, treatment or manufacture and distribution of dairy produce from milk or cream supplied by shareholders, or from the investment of any surplus funds from such activities not distributed to shareholders.

CO-OPERATIVES ACT 1996

Section 2 Interpretations

“apex organisation” means a registered co-operative under this Act, established facilitate the operations of all co-operatives of a particular type and shall be deemed to be so if it represents at least seventy five percent of the total number of co-operatives of that type in the country;

“by-laws” means the registered by-laws of a co-operative made according to the provisions of this Act and includes a registered amendment of the by-laws;

“co-operative” means an association of persons who have voluntarily joined together to achieve a common end through the formation of a democratically controlled organisation, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in which the members actively participate, which is provisionally or fully registered under this Act as a primary or secondary co-operative, apex organisation or the National Co-operative Federation registered according to the provisions of this Act:

Provided that—

- (1) in the case of service co-operatives, at least fifty-one percent of a co-operative trade is done with its members; and
- (2) in the case of workers’ co-operatives, at least eighty percent of the permanent full-time employees, as defined in the Employment Act, shall be members of co-operative and all members shall be employees in the co-operative.

“dividend” means a portion of the net surplus of a co-operative distributed among the members in proportion to the paid-up share capital held by them in the co-operative;

“member” means an individual person, registered co-operative or association joining in the application for the registration of a co-operative, and a person, registered co-operative or association admitted to membership of a co-operative after registration in accordance with the provisions of this Act and the by-laws of the co-operative;

- “Registrar” means the Registrar of Co-operatives appointed under **Section 6** of this Act and includes any persons exercising such powers of the Registrar as may have been conferred upon him or her under the provisions of that Section;
- “primary co-operative” means a registered co-operative consisting of individual persons or associations as members;
- “secondary co-operative” means a registered co-operative, what-ever name it may be called, consisting of primary co-operatives and, subject to the approval of the Registrar, individual persons as members;
- “service co-operative” means any co-operative having at least fifty-one percent of its transactions with its members;
- “workers co-operative” means a co-operative where every member is a worker in the co-operative and where at least eighty percent of the permanent full-time employees in the co-operative are members of the co-operative.

Tax treatment of co-operatives

36. The Income Tax Act in so far as it provides for the taxation of co-operatives, apply to co-operatives registered under this Act.