

BILL NO. 26 OF 2015

A BILL

FOR AN ACT TO AMEND THE STAMP DUTIES ACT (CAP. 205)

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Stamp Duties (Budget Amendment) Act 2015.
- (2) This Act shall come into force on 1 January 2016.
- (3) In this Act, the Stamp Duties Act (Cap. 205) shall be referred to as the “Principal Act”.

Section 4A amended

2. Section 4A of the Principal Act is deleted and substituted with the following—

“Waiver or refund of stamp duty

4A.—(1) Without prejudice to section 3, the Chief Executive Officer may, subject to such conditions as he or she considers necessary, waive or refund the whole or any part of any stamp duty payable in respect of any instrument provided that the waiver or refund does not exceed \$10,000.

(2) Notwithstanding subsection (1), if the waiver or refund exceeds \$10,000, the Minister may, subject to such conditions as he or she considers necessary, waive or refund the whole or any part of any stamp duty payable in respect of that instrument.”

New part inserted

3. The Act is amended by inserting the following new part after Part 2—

“PART 2A—ANTI-AVOIDANCE

Avoidance of Stamp Duty

27A. If there are reasonable grounds for the Chief Executive Officer to believe that any dealings have the direct or indirect effect of—

- (a) altering the incidence of any stamp duty that is payable or suffered by, or which would otherwise have been payable or suffered by any person;
- (b) relieving any person from any liability that has arisen or which would otherwise have arisen to pay stamp duty or file a stamp duty return;
- (c) evading or avoiding any liability which is imposed or would otherwise have been imposed on any person under this Decree; or
- (d) hindering or preventing the operation of this Decree in any respect,

the Chief Executive Officer may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the dealings and make such assessments as the Chief Executive Officer considers just and proper in the circumstances.”

Schedule amended

4. The Schedule to the Principal Act is amended in—

- (a) Part 1 by—
 - (i) deleting “Any mortgage relating to small and micro enterprises” under “MORTGAGE”; and
 - (ii) inserting the following new instruments in the table—

<i>Nature of Instrument</i>	<i>Amount of Duty</i>	<i>Persons Primarily Liable</i>
“DEED OF ASSIGNMENT OF TRADE-MARKS	3% of the value of the trade-mark	The person executing the deed
FINANCE LEASE OR LOAN AGREEMENT, excluding a personal loan not exceeding \$10,000	1.75% of the lease or loan	The lessee or borrower

NEW REGISTRATION OF VEHICLES, according to the engine capacity of the vehicles—		
(i) 0cc – 999cc;	\$25	New owner of the vehicle”
(ii) 1000cc – 1599cc;	\$50	
(iii) 1600cc – 1999cc;	\$100	
(iv) 2000cc – 2599cc;	\$200	
(v) 2600cc – 2999cc;	\$300	
(vi) 3000 – 3599cc;	\$400	
(vii) 3600cc – more than 3600cc	\$500	

(b) Part 2 by inserting the following new paragraphs after paragraph 28—

“(29) Any small and micro enterprise with an annual gross turnover not exceeding \$500,000 is exempted from paying any stamp duty under this Act provided that they declare by way of a statutory declaration that they have a gross turnover not exceeding \$500,000.

(30) Any crop lien.”

(c) Part 3 by—

(i) deleting paragraph 1(4) and substituting the following—

“(4) Any Fiji citizen who purchases a residential property in Fiji is conditionally exempted from paying stamp duty under this Act, provided that the residential property is the first residential property in Fiji or elsewhere that is purchased by the Fiji citizen in Fiji or elsewhere.”;

(ii) deleting sub-paragraph (1)(a) and (c) of paragraph 3; and

(iii) deleting “, but does not include such a building which is divided into more than 2 parts each of which is occupied or intended to be occupied as a separate dwelling” in paragraph 4(b).

STAMP DUTIES (BUDGET AMENDMENT) BILL 2015

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

1.1 The Stamp Duties (Budget Amendment) Bill 2015 (**'Bill'**) seeks to amend the Stamp Duties Act (**'Act'**).

2.0 CLAUSES

2.1 Clause 1 of the Bill provides the short title and commencement date.

2.2 Clause 2 of the Bill amends section 4A of the Act to empower the Chief Executive Officer of the Fiji Revenue and Customs Authority to, subject to such conditions as he or she considers necessary, waive or refund the whole or any part of any stamp duty payable in respect of any instrument provided that the waiver or refund does not exceed \$10,000. If the waiver or refund exceeds \$10,000, the Minister for Finance (**'Minister'**) may, subject to such conditions as he or she considers necessary, waive or refund the whole or any part of any stamp duty payable in respect of that instrument.

2.3 Clause 3 of the Bill amends the Decree by inserting a new part to cater for the avoidance of stamp duty.

2.4 Clause 4 amends Part 1 of the Schedule to the Act so that new registration of vehicles is subject to stamp duty according to the engine capacity of the vehicles. Deeds of assignment of trade-marks are also subject to stamp duty at the rate of 3% of the value of the trade-mark. Also, finance leases or loan agreements are subject to stamp duty, excluding personal loans not exceeding \$10,000.

2.5 Clause 4 of the Bill amends Part 2 of the Schedule to the Act to exempt any small and micro enterprise with an annual gross turnover not exceeding \$500,000 from paying any stamp duty under this Act provided that they declare by way of a statutory declaration that they have a gross turnover not exceeding \$500,000. Crop liens are also exempted.

2.6 Clause 4 of the Bill also deletes paragraph 1(4) of Part 3 of the Schedule to the Act so that the provision is restricted to first-time home buyers in Fiji who are Fiji citizens. Furthermore, it amends the definition of “dwelling” in paragraph 4(b) of Part 3.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister for Finance.

A. SAYED-KHAIYUM
Attorney-General