



**THE DOUBLE TAXATION RELIEF (FIJI) ORDER 1977,  
AMENDMENT NO. 2**

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CATHERINE A. TIZARD, Governor-General

**ORDER IN COUNCIL**

At Wellington this 23rd day of May 1994

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 294 of the Income Tax Act 1976, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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**ORDER**

**1. Title and commencement**—(1) This order may be cited as the Double Taxation Relief (Fiji) Order 1977, Amendment No. 2, and shall be read together with and deemed part of the Double Taxation Relief (Fiji) Order 1977\* (hereinafter referred to as the principal order).

(2) This order shall come into force on the 28th day after the date of its notification in the *Gazette*.

**2. Giving effect to Third Protocol to Agreement**—(1) Clause 2 of the principal order is hereby amended by omitting the words "First and Second Schedules", and substituting the words "First, Second, and Third Schedules".

(2) The principal order is hereby further amended by adding, as the Third Schedule, the Third Schedule set out in the Schedule to this order.

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SCHEDULE

NEW THIRD SCHEDULE TO PRINCIPAL ORDER

“THIRD SCHEDULE

THIRD PROTOCOL TO THE AGREEMENT BETWEEN THE  
GOVERNMENT OF NEW ZEALAND AND THE  
GOVERNMENT OF THE REPUBLIC OF FIJI  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND  
THE PREVENTION OF FISCAL EVASION WITH  
RESPECT TO TAXES ON INCOME

The Government of New Zealand and the Government of the Republic of Fiji,

Desiring to conclude a Third Protocol to the Agreement between the Government of New Zealand and the Government of the Republic of Fiji for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income done at Wellington on 27 October 1976 (hereinafter referred to as “the Agreement”),

Have agreed that the following provisions shall form an integral part of the Agreement:

ARTICLE 1

Subject to Article 21 of the Agreement, a New Zealand resident deriving income from Fiji, being income referred to in paragraph (2) of Article 20 of the Agreement, shall not be entitled to the benefit of paragraph (3) of Article 20 where the competent authority of New Zealand considers, after consultation with the competent authority of Fiji, that the benefit is inappropriate, having regard to:

- (a) whether any arrangements have been entered into by any person for the purpose of taking advantage of paragraph (3) of Article 20 for the benefit of that person or any other person;
- (b) whether any benefit accrues or may accrue to a person who is neither a New Zealand resident nor a Fiji resident;
- (c) the prevention of fraud or the avoidance of the taxes to which the Agreement applies;
- (d) any other matter which either competent authority considers relevant in the particular circumstances of the case, including any submissions from the New Zealand resident concerned.

ARTICLE 2

Article 1 of this Third Protocol shall apply to income derived on or after 1 March 1994.

SCHEDULE—*continued*“THIRD SCHEDULE—*continued*”

## ARTICLE 3

1. The Contracting States shall notify each other through diplomatic channels that the constitutional requirements for the entry into force of this Third Protocol have been complied with.

2. This Third Protocol shall enter into force on the date of the later of the notifications referred to in paragraph (1) of this Article.

DONE at Suva in duplicate this 14th day of April 1994 in the English language.

D. J. MACKAY

S. L. RABUKA

FOR THE GOVERNMENT  
OF  
NEW ZEALAND

FOR THE GOVERNMENT  
OF  
THE REPUBLIC OF FIJI

Initialed at officials level on 16 December 1993:

On behalf of the New Zealand  
delegation

On behalf of the Fiji  
delegation

D. R. HENRY  
Commissioner of Inland  
Revenue  
(New Zealand)

S. T. MAILEKAI  
Commissioner of Inland  
Revenue  
(Fiji)”

MARIE SHROFF,  
Clerk of the Executive Council.

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## EXPLANATORY NOTE

*This note is not part of the order, but is intended to indicate its general effect.*

This order adds a Third Protocol to the 1976 New Zealand-Fiji Double Tax Agreement. The aim of the Third Protocol is to prevent tax avoidance through the use of tax sparing, and applies to income derived on or after 1 March 1994.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 26 May 1994.  
This order is administered in the Inland Revenue Department.