

AN ALERT FROM THE BDO TAX PRACTICE

BDO KNOWS:

JAMAICA TAX



► SUBJECT

FINANCE MINISTER'S BUDGET PRESENTATION AND REVENUE MEASURES FOR 2012/2013

► AFFECTING

ALL TAXPAYERS

► DETAILS

The Minister of Finance, Honorable Peter Phillips, in his budget presentation on May 24, 2012, presented a list of measures that are proposed to stimulate the economy and generate additional revenue. The measures were wide ranging.

Background. Jamaica, like many other countries, face the challenges of high debt, high unemployment and slow or no growth. The budget presented by the Honorable Minister was done, he said, with the aim of debt containment, the stimulation of economic growth and protection of the most vulnerable in the society. The revenue measures presented in the budget include the initial parts of a tax reform regime being undertaken by the government and are aimed at raising some J\$19.36B for the fiscal year 2012/2013.

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The measures announced by the Honorable Minister are set out below.

► **General Consumption Tax (GCT)**

1. Reduction in standard rate. The standard rate of GCT will be reduced by 1 percentage point from 17.5% to 16.5%.

Effective date is June 1, 2012.

2. Partially widen the GCT base. Some previously exempt and zero rated items will become taxable. It is proposed that the items listed in Table 1 below will remain exempt/zero-rated.

Table 1: Goods Remaining Exempt/Zero-Rated (Not Taxable)

GCT Free

Code	Item Description
31.01	Travel tickets for international travel
31.06	Chicken
31.07	Milk (excluding flavoured milk, milk based product's; condensed milk and milk substitute)
31.08	Cornmeal and counter flour; (unprocessed) corn, soya meal, wheat
31.13	Bread; bullas, and water crackers (unsalted)
31.11	Canned sardines, herrings and mackerel
31.12	Infant formula
31.14	Rice
31.15	Sugar (brown)
31.17	Salt
31.21	Baking flour in bags not less than 45.359 kg
31.26	Cooking oil (excluding olive oil; all cooking oil sprays)
31.32	Fish, cock and noodle soup, in aluminum sachets
31.42	School uniform and schools bags
31.45	Sanitary towels and tampons
31.47	Solar water heaters specified under tariff heading no 8419.1910 and 8419.1920
31.48	Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels specified under tariff no. 8541.40
31.53	Fertilizers or subheadings 3101.00 to 3105.00 (excluding subheading 3102.10), herbicides, fungicides, plant growth regulators, nematicides, rodenticides, veterinary preparation molluscides
31.54	Insecticides of heading Tariff Heading no. 38.08. Intended for use exclusively in agriculture
31.55	Drugs specified in the Fourth Schedule (List Four Drugs) to the Food and Drugs Regulations, 1975
31.56	Diagnostic reagents used for testing of dextrose in the blood and glucose, protein, ketones and pH in the urine
31.57	Contraceptive devices and substances
31.59	Disposable diapers for the incontinent
31.6	Orthopaedic appliances, surgical belts, trusses, splints and other fracture appliances, artificial limbs, eyes, teeth and other artificial parts of the body, hearing aids, other appliances which are worn or carried or implanted in the body to compensate for any bodily defect or disability, canes and crutches for the handicapped, prescribed eye-glasses and contact lenses including parts and accessories for any of the items (31.61)

31.62	Invalid carriages
31.63	Medical and surgical prostheses including surgical implants and ileostomy, colostomy and similar abilities designed to be worn by human beings.
31.64	Artificial breathing apparatus for individuals afflicted with respiratory disorder.
31.68	Exercise books ex. Tariff Heading 4820.20.
31.7	Sports equipment for use in an approved educational institution or for use by an approved sporting organisation.
31.73	Gold bullion, coins and bank and currency notes imported by the Bank of Jamaica.
31.76	Goods of non-consumable nature which the head of a denomination for which the goods are assigned declares in writing will be used only for the purpose intended and which the Commissioner of Inland Revenue is satisfied are purchased or imported solely for furnishing or decorating place of worship or as vestments for use during public worship.
31.77	Altar bread, matzos unleavened bread, communion wafers and altar wine purchased or imported for the purpose of administering the sacraments which the head of the denomination for which they are intended declares in writing will be used for the purpose intended.

The items in Table 2 below will become taxable at the standard rate of 16.5%.

Table 2. Goods to become Taxable

Tariff Code	Item Description
31.06	Raw foodstuff (excluding chicken)
31.07	Flavoured milk, milk based products; condensed milk and milk substitute
31.09	Corn beef (canned)
31.1	Pickled mackerel, herring, shad, dried salted fish
31.13	Buns, crackers (except water crackers), biscuits, (salted and unsalted)
31.18	Eggs
31.19	All patties
31.2	Rolled oats
31.22	Live birds, fish, etc.
31.31	Syrup ex. Tariff 21.06
31.49	Animal feeds pet food
31.51	Planting materials including cereals and seeds in their natural state, dormant flower bulbs, corms, roots and tubers and nursery stock, vegetable plants and live trees;
31.58	Surgical gloves, including disposable, sterile and those made of latex rubber
31.65	Printed matter, articles and materials classified under tariff heading nos. 49.01 to 49.05

Effective date : June 1, 2012.

3. Amendment to the GCT regime as it relates to electricity

- (a) The GCT threshold for residential customers will be increased from 200 kWh to 300 kWh per month.
- (b) The GCT rate on electricity for both residential and commercial customers will be increased from 10% to 16.5%.

Effective date : June 1, 2012

4. Amend GCT system for the accommodation sector.

It is proposed that the taxation system of the accommodation sector (hotels, villas, resort/cottages and apartments and other similar tourist accommodation) be modified by the introduction of a dual taxation

- (i) A specific GCT regime with rates per room as set out in Table 3 below.

Table 3: Proposed Specific GCT for Accommodation (Hotel Occupancy Room Rate)

List of Rooms/Hotel Size	Room Rate per Night US\$
Less than 51	2.00
51 to less than 101	6.00
101 to less than 201	10.00
At least 201	12.00

- (ii) Retention of the 10% GCT rate for the sector. However, the current tax free expenses of commission and transportation will no longer be allowed in the computation of the output tax. Gratuities will nonetheless remain as a tax free expense.

In relation to other tourist activities such as tour operators, attractions and water sport operators, the GCT rate of 10% shall still be applicable. However, for these tourist activities there will be a removal of the tax free expenses such as commission and transportation in computing the output tax. Similarly as stated for the tourist accommodation sector, gratuities will nonetheless remain as a tax free expense.

Effective date : September 1, 2012.

► **Special Consumption Tax (SCT)**

- 5. Change in the SCT regime in respect of Over Proof Rum.

- (a) It is proposed that the regime as it relates to over-proof rum, which currently attracts 30% ad valorem SCT be rescinded. Instead it is proposed that a specific SCT rate of \$960 per litre of pure alcohol (L.P.A) be imposed on over-proof rum.

Effective date : June 1, 2012.

- 6. Modify alcoholic regime for tourism. In December 2010, a specific regime was put in place to maintain the ad valorem SCT rate for the tourism industry. It is proposed that the old regime be supplanted with the specific SCT rate regime implemented at \$700 per litre of pure alcohol. (L.P.A)

Effective date : June 1, 2012.

- 7. Introduction of SCT on unprocessed tobacco. The introduction of specific SCT of \$10.50 per 0.7 gram of unprocessed tobacco product (bundled tobacco leaves) is proposed.

Effective date : June 2, 2012.

- 8. Imposition of SCT on denatured ethanol for use in the blending of petroleum products.

- (a) The GOJ is seeking to provide similar tax treatment in respect to denatured ethanol, purchased locally or imported for the purpose of blending with petroleum products.

- (b) Ethanol is alcohol which usually attracts a specific SCT rate of \$960.00 per litre pure alcohol (L.P.A). Given that the denatured ethanol is being used for the blending of petroleum products, the lower petroleum rate is proposed.

- (c) The denatured ethanol will, therefore, attract SCT at the rate of \$16.32 per litre.

► **Common External Tariff (CET)**

9. Increase in CET on selected goods.

- (a) It is proposed that there be an increase in the Common External Tariff on selected items on list C of the Harmonised Tariff.
- (b) List–C represents a CARICOM wide listing of items, which are deemed to be revenue sensitive. Some items under list C include, but not limited to motor vehicles (such as SUV's), motor vehicle spare parts, jewellery (diamonds, wrist watches), glass, alcohol (gin, vodka, liquers, cordials, etc).
- (c) It is proposed that the rate be increased by ten percentage points.

Effective date : June 1, 2012.

► **Corporate Income Tax (CIT)**

10. Amendment to Corporate Income Tax (CIT). The proposal is a modified rate structure with:

- (i) 33 1/3% for the regulated companies
- (ii) 25% for unregulated companies

Regulated companies would include companies regulated by the Financial Services Commission (FSC), Office of Utilities Regulation (OUR), Bank of Jamaica and the Ministry of Finance.

No adjustment is proposed to rates applicable to building societies or life assurance companies.

Effective date : January 1, 2013.

► **Personal Income Tax (PIT)**

11. Increase Annual General Personal Income Tax (PIT) Threshold. The proposed increase in the annual general personal income tax threshold is \$66,144 which will cause the threshold to be increased to \$507,312 up from the current \$441,168.

Currently workers in the tourism industry enjoy the portion of the tax free gratuity, which exceeded the personal income tax threshold. The tax free portion currently enjoyed is \$29,104 per annum. With the proposed threshold being greater than the current gratuity benefit, the retention would not provide any additional tax benefit and will be fully absorbed.

Effective date : January 1, 2013.

12. Introduction of Minimum Income Tax. It is proposed that a minimum income tax be implemented as follows:

(a) The tax should be applied by all registered companies with the following exceptions -

- (i) Companies in the first year of incorporation (in order to allow breathing space)
- (ii) Charities
- (iii) Any company under section 12 of the Income Tax Act (ITA).

(b) Companies under an incentive which provides income tax relief should be liable for the flat rate.

- (c) Self-employed; professionals (including lawyers, doctors, consultants).
- (d) A flat rate of \$60,000 is applicable.

Effective date : January 1, 2013.

► **Tax on Dividends**

13. Imposition of tax on dividends payable to residents.

- (a) The imposition of tax on dividends payable to residents is being proposed.
- (b) the proposed rate is five (5%) percent.
- (c) The tax should be withheld at source and paid to the Collector of Taxes.
- (d) The tax would be treated as a final tax.

Effective date : June 1, 2012.

► **Asset Tax**

14. Modify Asset Tax.

- (a) Financial institutions and security dealers. The proposed modification for financial institutions and security dealers governed by the BOJ and the FSC is as follows:
 - (i) The tax will be based on total assets (including Guarantees/Letters of Credits) but net of both International Financial Reporting Standards (IFRS) and prudential loan loss provisions;
 - (ii) Rate of tax 0.2%.
- (b) Non-financial institutions. For non-financial institutions the asset tax regime will be modified as follows:

Asset Value	Annual Asset Tax
At least \$50M	J\$100,000
At least J\$5M but less than J\$50M	J\$ 75,000
At least J\$500,000 but less than J\$5M	J\$ 50,000
At least J\$50,000 but less than J\$500,000	J\$ 25,000
Less than J\$50,000	J\$ 10,000

- (c) It is proposed that the filing date be changed from September 1 to March 15.

Effective date : June 1, 2012.

► **Call Termination Fees.**

15. Changes to termination cost for telephone calls.

- (a) It is proposed that there be a readjustment in the termination fee structure as it relates to mobile to mobile and mobile to land termination.

(b) It is proposed that the tax be placed as follows:

- (i) J\$0.30 per minute to the mobile network and fixed lines; and
- (ii) US\$0.75 per minute on all international calls for termination to the mobile network.

Effective date : June 1, 2012.

► **Motor Vehicle Licence and Registration Fee**

16. Increase motor vehicle licence and registration fees. It is proposed that there be an increase in motor vehicle licences, licence plates, fitness and registration fees by fifty (50%) percent. Details provided in Appendix 1.

Effective date : June 1, 2012.

► **Tax on Winnings**

17. Increase tax rate on winnings—Betting Gaming, Horse Racing and Lottery. It is proposed that the tax rate be increased from the current 15 to 20%.

Effective date : June 1, 2012.

► **Waivers**

18. Curtail Discretionary Waivers. It is proposed that the extent of discretionary waivers granted be significantly reduced by the adoption of the following strategies -

- (i) Cancellation of all blanket discretionary waivers, effective with the financial year FY 2012/2013.
- (ii) Abolition of GCT waivers to public entities liable for the payment of GCT, effective FY 2012/2013
- (iii) Abolition of waivers that relate to the importation of horses.
- (iv) Formalize the previous decision taken in 2011 to eliminate Modernization of Industry (MOI) as a discretionary waiver.
- (v) Introduction of Omnibus Legislation to govern waivers and incentives. This will be developed and passed through the legislative process over the medium term.
- (vi) Establish a reform and coordinating Unit for incentive and concessions, the objective will be to rationalize the assessment, approval and monitoring process.
- (vii) In addition, there will be the establishment of a waiver committee, which would be guided by the criteria stated in the Omnibus Legislation. The committee will have representatives of the Tax Policy Division, Tax Administration of Jamaica and a representative of Civil Society. The minister's role in the operation of the Committee will be one of appeal.
- (viii) All waivers above a certain threshold (to be decided by the Waiver Committee) will be gazetted.
- (ix) The development of a waiver policy procedure which will include:-
 - 1. A standardized application form to obtain relevant information including full applicant's name, business' name, nature of the waiver, the cost associated, tariff number (for imports), the tax being requested, TCC indicating compliance, invoices clearly outlining description of goods and associated value.
 - 2. An electronic system to track waiver application from start to finish, with the ability to generate reports to meet the Ministry of Finance's analytical needs.

3. Introduction of standard form responses in keeping with the waiver procedure that is being currently developed through the collaborative efforts of Tax Policy and Tax Administration of Jamaica.
 - (x) All incentives which have not been in use for a number of years will be repealed in the first year— FY 2012/2013.
 - (xii) The rationalization and reform of the incentive regime will be undertaken before the end of the medium term i.e FY 2015/2016. The proposed rationalization of incentives is being undertaken to ensure that these are offered within a structured rule based framework and is aligned with productivity indexes.

Effective date : June 1, 2012

► **Conclusion:**

The implementation of these tax measures is, of course, subject to the enactment of the appropriate legislation. It is possible, also, that in the coming weeks there may be changes to these proposed measures as different interest groups seek to mitigate against the perceived expected adverse effects of the tax measures on their businesses.

There are items for which clarification is needed, for example –

- (i) Is the imposition of the minimum income tax to affect all self-employed individuals or is it self-employed professionals only?
- (ii) If these self-employed individuals must pay a minimum income tax would it mean that they no longer benefit from the tax free threshold?
- (iii) Would they be paying income tax whether or not their chargeable income is above the stated income tax threshold?
- (iv) How exactly will the minimum income tax be accounted for? Will there be a separate form or will the ITO1 to ITO5 be modified?
- (v) What exactly does “final tax” mean as it relates to the tax on dividends?

It would appear that the tax measures could likely be a cause of contraction of the economy as they will result in considerable reduction in the purchasing power of the average consumer. Increase in food, telephone, electricity and transportation will result from these measures. The one percent (1%) reduction rate of GCT is unlikely to compensate for the adverse effects of the other tax increases.

There will be no income tax relief for those individuals whose income is already below the income tax threshold while those who are currently above the threshold will not benefit from the increased threshold for the next seven (7) months, because while most of the measures that will affect consumers will come into effect on June 1, 2012, the increase in the threshold does not become effective until January 1, 2013.

It is noteworthy, that the increases in asset tax, especially for regulated companies, represents one of, if not, the most significant rate increases. The tax moves from a fixed J\$35,000 per annum maximum for all companies with asset values of J\$100 million or more to a minimum of J\$200,000 to possibly millions of dollars for regulated companies with asset values of J\$100 million or more. Banks and utility companies, for example, with large asset values will be significantly affected.

Answers and clarifications to the issues that have arisen will have to be sought from the Honorable Minister and his technocrats and only time will determine if any or all of his stated objectives will be met.

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IMPORTANT NOTICE

Material discussed in this tax alert is meant to provide general information and should not be acted on without professional advice tailored to your entity's individual needs.

Appendix I: Proposed Changes for Motor Vehicles – Licence, Licence Plates, Fitness & Registration Fees

Annual Motor Vehicles Licence Fees				
		Rates Structure	Old Rates	New Rates
Taxis				
Motor Cars (Taxis)		5,125	5,125	7,700
Motor Cars				
Motor Cars (not exceeding 1199cc)		5,125	5,125	7,700
Motor Cars (exceeding 1199cc but not exceeding 2999cc)		7,000	7,000	10,500
Motor Cars (exceeding 2999cc but not exceeding 3999cc)		16,000	16,000	25,600
Motor Cars (exceeding 3999cc)		24,250	24,250	38,800
Motor Cycles				
Motor Cycles (not exceeding 125cc)		2,050	2,050	3075
Motor Cycles (exceeding 125cc but not exceeding 500cc)		3,100	3,100	4650
Motor Cycles (exceeding 500cc)		4,750	4,750	7125
Trucks and Tractors (petrol/diesel)				
Trucks and Tractors (not exceeding 50 cwt./2540.115kg)		7,000	7,000	10,500
Trucks and Tractors (exceeding 50 cwt./2540.115kg but not exceeding 120cwt/6109.09kg)		12,000	12,000	18,000
Trucks and Tractors (exceeding 120cwt/6109.09 kg)		12,000	12,000	18,000
Trailers				
Trailers (per cwt./50.91 kgs)		112.50 per cwt		168.8 per cwt
		112.5		168.8
0 - 20cwt	20		2,250	3,375
20cwt - 30cwt	30		3,375	5,063
30cwt - 40cwt	40			

Annual Motor Vehicles Licence Fees				
		Rates Structure	Old Rates	New Rates
			4,500	6,750
40cwt - 50cwt	50		5,625	8,438
50cwt - 60cwt	60		6,750	10,125
60cwt - 75cwt	75		8,438	12,656
75cwt - 120cwt	120		13,500	20,250
120cwt and over	121		13,613	20,419

Licence Plate Fees		
Plate Types	Plate Rates	Rate Change
PP and CC Plates	1,500	2,250
Motor Cycle Plates	1,250	1,875
Private Plates	1,500	2,250
Trailers (private)	1,500	2,250
Substitute Motor Car Plates(private)	2,500	3,750
Substitute Motor Cycle Plates & Trailer	2,500	3,750
Substitute PP/CC Plates	2,500	3,750
Demonstration Plates	5,000	7,500
Personalized Plates	20,000	30,000

Licence Fees		
	Current Fee	New Fee
General Driver's Licence	4,000	6,000
Motor Cycle Driver's Licence	2,300	3,450
Private Driver's Licence	3,000	4,500
Provisional Driver's Licence (Learner's) for one year	1,000	1,500
Substitute Driver's Licence	2,300	3,450

Other MV Related Fees		
	Current Fee	New Fee
Application of Title	900	1,350
Application for Motor Vehicle Title (Substitute)	1,000	1,500
Driver's Licence Examination Fee	1,800	2,700
MV Certificate of Fitness Fee (Private Motor Vehicle/Car)	2,500	3,750
Motor Cycle Fitness Fee	2,500	3,750
Trailer & Tractor Fitness Fee	3,000	4,500
MV Certificate of Fitness Fee PPV (L-Form)	1,800	2,700
MV Certificate of Fitness Fee – M/V defects were remedied	3,500	5,250
M/V Certificate of Fitness Fee – PP & CC	3,000	4,500
Substitute Registration Certificate/Disc Fee	500	750
Motor Vehicle Transfer Fee	500	750