Tax Newsflash

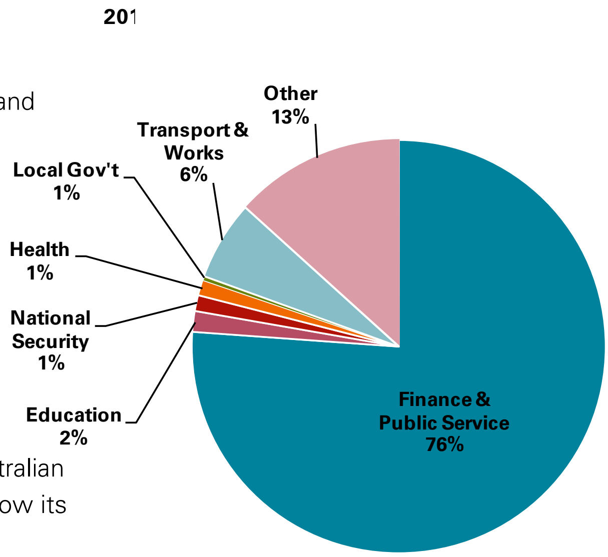
2011/12 Budget Presentation

Budgets are as much about plotting the course for the future as they are about financing the immediate fiscal year. This year's budget speech emphasised growth, but did not seem to have an overarching theme of where the government thinks we should go as a nation, and appeared more focused on reinforcing a message that the government had stabilized the economy, given several economic shocks, natural disasters and an inherited high interest rate regime.

What's inside:

The global economic context

The budget, which was presented by the Minister of Finance and the Public Service on Thursday, April 28, 2011, was delivered in a context of significant global uncertainty. The USA, which is our largest trading partner, and the world's largest economy, is in jeopardy of falling back into recession as a result of a partisan political environment, a poor fiscal account, and sluggish economic growth. The UK economy, in the shadow of an austerity program, is still in recession with no economic growth in the last six months. The broader Europe is facing a debt crisis with governments unable to meet prior obligations. Asia, in spite of the Japanese and Australian setbacks, is much more promising with China continuing to grow its economy in high single digits, and Singapore beating the odds with 14.7% growth in GDP in 2010.

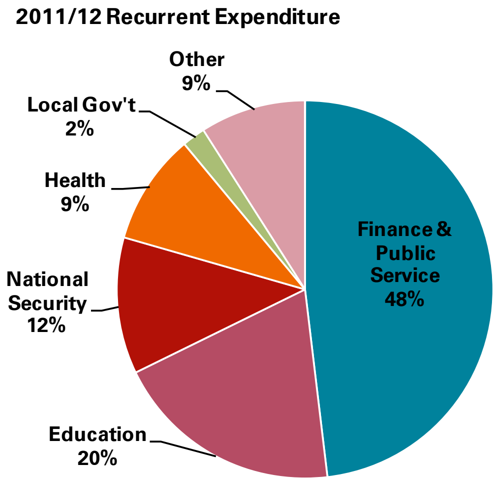


Jamaica's medium term outlook

The Planning Institute of Jamaica released last month, *"A Growth-Inducement Strategy for Jamaica In The Short And Medium Term"*. This strategy is underpinned by a short term growth stimulus which consists primarily of J$13 billion in National Works Agency projects with funding to be sourced from the Ministry of Transport and Works. This expenditure is targeted to add between 1.5% and 3% to GDP growth. Interestingly, the projected growth in GDP announced in the budget for 2011/12 is 1.5%.

Annual readers of our budget analysis may recall that we support significant expenditure in infrastructure in order to prepare our economy for the next 50 years. This investment in infrastructure would create jobs, provide GDP growth, and more importantly, improve desired outcomes. The scale of Jamaica's required investment in infrastructure far outstrips the announced expenditure target; by way of example, the amount of infrastructure required for the education sector, alone, is approximately US$1 billion.

We believe that the budget could have and should have done more in the area of infrastructure investment, with the increased investment being financed through Public Private Partnerships, rather than by central government debt.



Further, the continued economic decline is a cause for concern. We note that the rate of decline has been reduced and that inflation and the fiscal deficit were slightly lower than projected. These results are a cause for optimism, but ought not to be taken as evidence that we have "turned the corner" with respect to growth in the economy.

The fact that the Cabinet has authorised the Minister to seek an extension of the IMF Stand-by Agreement for another two years, from May 2012, is tacit admission that the previously announced fiscal targets may have been aggressive and overly optimistic.

Budgeting for growth?

The government's growth projections are in its words "predicated on recovery in the global economy, particularly for the USA, as the recession is expected to end in 2011." We believe that, for the reasons noted above, this scenario is optimistic. Further, we note that the divestment programme as announced indicates that the divestment of Clarendon Alumina Partners (CAP) and Air Jamaica are taking much longer than anticipated.

We share concerns expressed and support the investment in improving our capacity to manage the impact of natural disasters. We note that proactive steps are being taken to reduce the cost of transactions in the real estate sector and financial sector and we hope that the elimination of these costs will increase transaction volume and competition in the financial sector, thereby, bringing a greater level of market forces to bear on interest rates.

In closing, we view positively the fact that the government did not seek to increase the tax burden, and in fact sought to alleviate the cost of importation and purchase of motor vehicles and the reduction in death duties. We note that while the Minister indicated that "The Government is not short of proposals. Action must now be taken – Proposals must now be implemented …", broadly speaking, a number of the recommendations of the Matalon Committee are yet to be implemented.

No new taxes may mean more frequent compliance audits

Although the proposed revenue measures, tabled in Ministry Paper 31/2011, do not raise new taxes, the Minister alluded to tax reform developments which aim to increase the operational efficiency of the revenue departments and improve tax compliance.

Semi-Autonomous Revenue Authority (SARA)

The amendments to the Revenue Administration Act which were passed on April 1, 2011 will take effect on May 1, 2011, allowing the Revenue Administration to be structured into three departments, operating under a Semi-Autonomous Revenue Authority Model.

This will see the following changes:

- The Inland Revenue Department, the Taxpayer Audit and Assessment Department and the Tax Administration Services Department will be merged to form a single department called Tax Administration Jamaica under a Commissioner General;
- The Customs Department will be separated from the Tax Administration and become an executive agency; and
- The Taxpayer Appeals Department will become a Revenue Appeal Division under the Ministry of Finance and the Public Service.

This new model is expected to create greater efficiency in tax administration as commissioners will be compensated based on their performance, both quantitatively and qualitatively.

The improved synergies between the tax departments should increase the flow of information and trigger greater opportunities for more efficient tax audits of delinquent taxpayers. As the *government has opted against new taxes in this fiscal year, it is our view that it will seek additional revenue by aggressively pursuing and enforcing tax compliance.*

Tax measures affecting the cashflow for business enterprises

Accelerated GCT credit claims on purchase of machinery and equipment.

Effective May 2, 2011, registered taxpayers in a taxable activity can claim the input tax incurred on the purchase of machinery and equipment valued in excess of J$100,000 over 3 months.

Presently, such credits can only be claimed over a 24 month period and are not applicable to motor vehicles or equipment that is not wholly or mainly used of making taxable supplies. This measure should benefit the cashflow of registered taxpayers. We assume that this tax measure will only apply to acquisitions made as of May 2, 2011. Transitional provisions may need to be considered.

Significant reduction in stamp duty on refinancing arrangements

Effective May 16, 2011, a nominal stamp duty of $100 will be applicable to the refinancing of mortgages for equal amounts or less. Any borrowed funds in excess of the existing loan will attract the existing stamp duty on mortgages.

Presently the refinancing of mortgages attracts stamp duty at 3% of the consideration for the transfer which was a prohibitive cost for many taxpayers. This measure may stimulate borrowing and may increase competition among the players in the financial sector. Any borrowed sum in excess of the refinanced loan will continue to attract the usual stamp duty on mortgages of $1.25 per $200 of the sum borrowed.

Removal of transfer tax and stamp duty on registered corporate bonds

Effective May 16, 2011 stamp duty and transfer tax will be removed from the issue and transfer of registered corporate bonds. The measure will apply to such bonds issued by all companies, whether they are listed or unlisted.

The present stamp duty on the issue of securities is approximately 1% and the transfer tax on the transfer of securities is 4% of consideration. The measure should reduce the cost of raising capital which should aid in stimulating growth in the economy.

April 28, 2011

Since May 1, 2008, the Government has been consistent in reducing the rates of transaction taxes payable. The Minister, in his 2008/2009 Budget Presentation, had highlighted the need to stimulate the real estate market and introduced the first reduction in the transfer tax rate and the stamp duty rate payable on real estate transfers. These rates were further reduced in January 2010 to the current transfer tax rate of 4% and the current stamp duty rate of 3% on real estate transfers. These gradual rate reductions since 2008 also extended to transfers of securities. However, this measure is a change from the trend as it is a specific tax reduction for the transfer of certain securities.

Use of excess contractors levy credit

Effective for financial year 2011/2012, where the 2% contractors levy has been deducted from the contract sum of a contractor and was paid to the Collector of Taxes, any amount, not utilized as a credit for income tax for that year of assessment, can be carried forward to subsequent periods not exceeding five years.

Contractors levy is imposed on payments made to contractors, or by contractors to sub-contractors, in respect of construction, haulage and tillage operations.

On initial reading, the measure suggests that the facility will not be available until year of assessment 2012. This would mean that a taxpayer with a financial year ending in the calendar year 2012, would be able to carry forward the unused credit. However, a taxpayer whose financial year ends in 2011, would not be able to carry forward the unused credit arising in that year. We assume, however, that the measure will only apply to payments made to contractors or sub-contractors as of April 1, 2011, the beginning of the government's financial year and any unused credit arising in the 2011 year of assessment can be carried forward for 5 years. The measure should also improve the cashflow position of taxpayers affected.

Significant reduction in death duties

Effective May 16, 2011, the stamp duty and transfer tax on applications for Probate and Letters of Administration will be as follows:

- For applications filed on or before April 27, 2011:
  - Stamp duty at a flat fee of $5,000

This has been reduced from a stamp duty of up to 3% of Net value of the estate. If payments have already been made in excess of the reduced duty, the excess sum is not refundable.

- Transfer Tax at 1.5% of the net value of the estate

This has been reduced from a duty of 4% of the net value of the estate. If payments have already been made in excess of the reduced rate, the excess sum is not refundable.

- For applications filed after April 27, 2011:
  - Stamp duty at the following rates in J$:

Net value of estate up to $10,000,000	$5,000
Net value of estate $10,000,001-$20,000,000	$10,000
Net value of estates $20,000,001-$30,000,000	$15,000
Net value of estates $30,000,001-$40,000,000	$20,000
Net value of estates $40,000,001 and above	$25,000

  - Transfer Taxes will be reduced from 4% to 1.5% of net value of estates.

These measures reduce death duties by more than 50%, in certain circumstances and surpass the recommendations made in 2004 by the Matalon Tax Policy Review Committee, in relation to death duties. That Committee had suggested that transfer tax on death be reduced to 5% of the net value of the estate.

Further Tax Administration Reform

Professional individuals now have to file an annual income tax return

Beginning this financial year, doctors, lawyers, accountants and other professional individuals will be required to file an annual income tax return declaring their gross annual income, which will include income earned under the PAYE system.

This new mandatory filing requirement is a change from the existing statutory provisions which do not require PAYE taxpayers to file an annual income tax return, unless directed by the Commissioner of Inland Revenue, at her discretion. We believe that a definition of all persons falling within the category "professional individuals" will be required.

April 28, 2011

Amalgamation of the filing of payroll deductions

The final steps for the complete amalgamation of the filing of payroll deductions will be implemented between mid 2011 and January 2012. The multiple annual returns filed by employers will be replaced by one annual return for the filing of PAYE, Education Tax, NIS, NHT and HEART contributions.

The Minister stated that consideration is also being given to making other changes concerning payroll deductions. It is hoped that among those changes will be the reconciliation of the significant differences between crucial provisions of the legislations providing for statutory deductions.

Looking forward: Tax measures to come

In closing his Budget Presentation, the Minister mentioned several tax measures which are being seriously considered including:

- Implementation of measures which would allow credits earned to be set off against any tax type.
- Elimination of the existing restriction which prevents registered taxpayers from claiming GCT input tax credits on building materials used in their taxable activities.
- New companies would be allowed to claim GCT input tax credits in relation to pre-incorporation activities on their first GCT return.
- The right of appeal will be extended to include decisions made by the Commissioner General.
- The introduction of an incentive programme which allows tax credits to be claimed by small and medium sized enterprises which employ and maintain persons who were previously unemployed.
- A tax credit system for companies which use alternative energy sources which are in keeping with the energy policy of the Government.
- The introduction of compulsory filing of third party information on tax returns.

  This proposed filing of third party information will require serious consideration and consultation, given the implications for confidentiality, and the obvious data privacy issues. Also, the Minister's statement has not sought to clarify the scope of the disclosure that would be required, as it is unclear how far disclosure of all third party transactions would go.

Disclaimer

We must emphasize that the information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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