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Post Budget Tax Bulletin 2014/15

April 17, 2014

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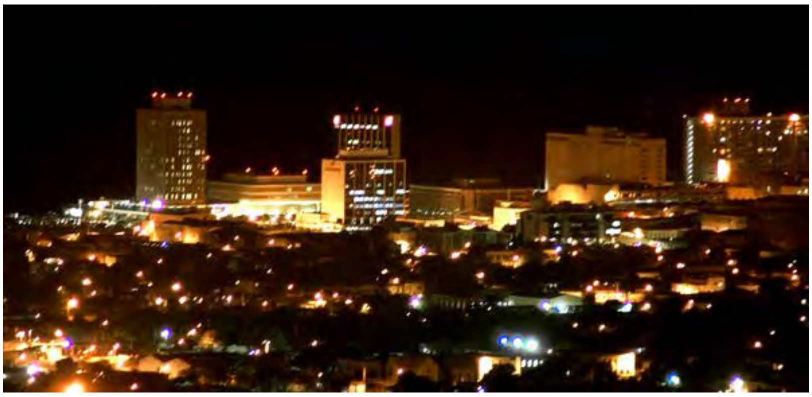

Introduction

The Minister of Finance and Planning ("the MOF") during his 2014/15 Budget Presentation on April 17, 2014 confirmed that it is not business as usual. We are now fully immersed in the tax reform action plan heralded by the Green Paper on Tax Reform For Jamaica tabled by the MOF in 2011. In the last 18 months, a number of the tax measures which were often only debated in the past have found their way into the tax laws of Jamaica. The year 2013 saw a full slate of legislation being ushered through the Houses of Parliament to meet the Government of Jamaica's ("the GOJ") various commitments to the International Monetary Fund ("the IMF"), and we can clearly see more than a framework of the tax reform landscape.

With the passage of the long promised Charities Act, 2013, the replacement of certain sector specific tax incentives with more universal fiscal incentives, the introduction of a minimum business tax and the amalgamation of payroll tax filings, we have entered a new era of Jamaican taxation. The tax legislative reform impetus is undoubtedly a welcome change, and we look forward to the sustained and effective implementation and enforcement of these tax measures.

So far, new and higher taxes have been necessary. Based on the 2014/15 revenue measures announced by the MOF, this fiscal year will be no different. What is not clear is whether the new and higher taxes announced today are all part of the tax reform action plan or are the most expedient measures to fill the $6.69 billion gap in the budget. We believe it is the latter. We expect that there will be more to come in 2014/15 which is more in line with the tax reform action plan.

New levy on withdrawals from deposit-taking institutions and encashments from securities dealers

Effective June 1, 2014, a new levy will be imposed on all withdrawals from deposit-taking institutions through electronic banking, point of sale transactions (debit cards), cheques, banking hall transactions, ABMs, ATMs, ETMs and internet transfers. The only exception is internet transfers made by a person between his accounts in the same financial institution.

The levy is also imposed on all encashments from securities dealers, i.e. each payment made by a licensed securities dealer to any of its account holders or on their instructions arising from the full or partial encashment or withdrawal of funds.

The deposit-taking institutions and securities dealers must file returns and account to Tax Administration Jamaica ("TAJ") on a monthly basis for the levy collected. They must also report the value and volume of transactions to their regulators.

Levy Rates on Withdrawals from deposit-taking institutions and securities dealers

Value of Transaction	Levy Rate
Less than $1M	0.1%
$1M to $5M	0.09%
Greater than $5M to $20M	0.075%
Greater than $20M	0.05%

"The introduction of this levy comes on the heels of strong opposition being raised to the transaction fees charged by banks. Although the levy has been described as a minimal ad valorem levy, it is expected that this measure will spark strong debate."

Increase in Assets Tax

Effective May 1, 2014 the Assets Tax payable by regulated companies and by some other entities will be increased. The term "other entities" applies to unregulated companies and registered societies that are subject to Assets Tax.

The Assets Tax rate applicable to regulated companies will increase by 78.5% from 0.14% to 0.25% of the value of the assets. A "regulated company", for Assets Tax purposes, is one regulated by either the:

a) Bank of Jamaica; or

b) Financial Services Commission.

These categories of companies are generally deposit-taking institutions, insurance companies and securities dealers.

When the modified Assets Tax regime was first proposed in the Budget Presentation for 2012/13, an Assets Tax rate of 0.2% of the value of the assets for regulated companies was presented. After lobbying efforts by regulated companies the rate was revised to 0.14%. The government now seems to be going beyond its initial position.

The graduated Assets Tax rates applicable to other entities (excluding such entities with asset value less than $500,000) will increase by 100%.

Proposed Rates for "Non-Regulated Entities"

At least $50M	$200,000
At least $5M but less than $50M	$150,000
At least $500,000 but less than $5M	$100,000
Rates For The Following Categories Remain Unchanged	
At least $50,000 but less than $500,000	$25,000
Less than $50,000	$5,000

"Several micro and small businesses have cash and equipment valuing over $500,000, and it is our view that a significant part of this sector will not be shielded from the increased rate."

April 17, 2014

Increased taxes for insurance companies

"This income tax rate on investment income brings the GOJ closer to simplifying the tax system and removing the multiple income tax rates applicable to companies. Although this moves life assurance companies closer in line with the 25% corporate income tax ("CIT") rate for unregulated companies, it still represents yet another income tax rate applicable to companies.

The pro-rating of the rates brings back memories of the pro-rating of the 2013 CIT rates for large unregulated companies. We expect that clear guidelines will be issued on the

Effective year of assessment 2014, life insurance companies will pay a 20% tax on their investment income. This represents an increase of 33⅓% over the current rate of tax.

Effective year of assessment 2014, all life assurance companies will pay a higher rate of 5.5% on their gross premium income. This represents an increase of 2.5 percentage points over the current rate of 3% on premium income earned by a regionalised life assurance company and an increase of 1.5 percentage points over the current rate of 4% on the premium income of a non-regionalised life assurance company.

The income tax rate increases will be pro-rated, and so life insurance companies will pay the old rates for the period January 1, 2014 to April 30, 2014 and will pay the new rates for the period May 1, 2014 to December 31, 2014. For subsequent years of assessment, the new rates will apply for the entire 12 month period.

Changes in the SCT Rates (Petrol and Diesel Vehicles)

Description of Vehicles	Current Rate	Proposed Rate
Dealer Rates		
Exceeding 3500 cc (Diesel and Petrol)	30% (petrol) 23% (diesel)	20% (petrol) 13% (diesel)
Hybrid	0%	10%
Individual Rates		
Exceeding 3500 cc (Diesel and Petrol)	40% (petrol) 30% (diesel)	30% (petrol) 20% (diesel)
Hybrid	0%	10%

Modification of the duty regime for specified motor vehicles

Effective May 1, 2014, the customs duty and Special Consumption Tax ("SCT") on the importation of certain vehicles will be modified.

The changes are as follows:

- The customs duty (Common External Tariff (CET)) rate on vehicles with engine rating of 2000 cc and above will be reduced from 30% to 20%.
- The SCT rates will change by 10 percentage points on petrol or diesel vehicles with engine ratings over 3500cc and on hybrid vehicles.

April 17, 2014

Increase in Annual Personal Income Tax Threshold

Effective January 1, 2015, the Personal Income Tax (PIT) Threshold will increase from $507,312 to $557,232 per annum.

Individual in business stand to benefit from this increase, along with new income tax credits now available under the tax reform programme. In addition to the PIT, individuals in business can further reduce their income tax liability through income tax credits from:

- Statutory contributions paid under the Employment Tax Credit regime; and
- Minimum Business Tax paid under the MBT regime.

Individual pensioners may also claim old age relief and pension relief of $80,000/annum in each case, to reduce their income tax liabilities.

GCT Rates to be Retained for Second Sale Vehicles. To be applicable to Vehicles ten (10) years and under

Motor Cars	
Motors Cars (cc rating 0 — 1999 cc)	$10,000
Motors Cars (cc rating 2000 cc — 2999 cc)	$15,000
Motors Cars (cc rating 3000 & upwards)	$20,000
Motor Trucks (cwt)	
Trucks — 0 — 30	$10,000
Trucks — 31-60	$10,000
Trucks above 61 and up	$25,000

GCT on second sale of motor vehicles up to 10 years old

Effective April 1, 2014, any person who is not a registered taxpayer is required to charge GCT on the second sale of motor vehicles which are up to 10 years old. This represents an additional 2 years on the age limit of such motor vehicles, moving it from 8 years to 10 years.

Reduced SCT on unbundled tobacco

With effect from April 1, 2014, the SCT on unmanufactured or refuse tobacco is reduced from $10.50 per 0.7grams/1 stick to $1.05 per 0.7grams/1 stick.

STC on Alcohol

There are currently different STC rates for different alcoholic beverages. There is one rate for beer and stouts ($1,120 per litre of pure alcohol (l.p.a)), one rate for other alcoholic beverages ($960 per l.p.a), and a concessionary rate for tourism entities ($700 per l.p.a). The proposal is to standardise all rates at $1,120 per l.p.a.

Rituals of June

Although not part of the MOF's Budget Presentation, there are several new tax provisions that became effective in 2014 that have June action dates that we would like to bring to your attention.

June 15 - Minimum Business Tax

The Minimum Business Tax (MBT) became effective April 1, 2014. The MBT is $60,000 per annum and $30,000 must be paid by June 15 and $30,000 by September 15. Even though the MBT became effective on April 1, there is no pro-rating and the total $60,000 must be paid in calendar year 2014. The MBT is applicable to certain companies/corporate bodies other than those registered under the Charities Act, 2013 and certain individuals operating a business/profession.

"There is no exemption for dormant entities or loss making entities. Therefore, once a company is in existence whether dormant, active, or loss making, it will be required to pay this tax."

Impact of MBT

Company	Individual
can use the MBT paid as a credit to offset their income tax liability for that year of assessment	can use the MBT paid as a credit to offset their income tax liability for that year of assessment
are not allowed to use the excess MBT paid to offset MBT for any subsequent year	are not allowed to use the excess MBT paid to offset MBT for any subsequent year
cannot claim a refund or apply excess MBT as credit against income tax for any subsequent year of assessment for any other reason	The individual may carry forward any excess as a credit against income tax (but not MBT) for subsequent years of assessment
	MBT in excess of their income tax liability is refundable, upon filing the income tax return for the year of assessment

June 15 – Estimated tax payment and tax loss brought forward

"What this new rule has done in March 2014 is to surprise many taxpayers who have not paid any estimated income tax in the past because of tax losses. Because of the 50% limitation, a taxpayer needs to pay estimated income tax even though the company may have more than sufficient brought forward tax losses to offset the projected income for the year."

New tax loss brought forward rules kicked in this year. See KPMG Tax Bulletin - New Tax Loss Rules. Those who have followed the discussion know that there is a 50% limitation rule. What has caused confusion is whether the 50% rule (1) limits the amount of brought forward losses; or (2) limits the amount of taxable income that may be offset by brought forward losses in any one year. So, for example, if a company has accumulated tax losses of $10 million at the end of 2013, and the company has taxable income of $4 million in 2014, can the company (1) take 50% of the brought forward tax losses ($5 million) and offset all of the $4 million taxable income in 2014, resulting in no taxes payable in 2014; or (2) take all of the brought forward tax losses ($10 million) and offset only 50% of the taxable income for the year (which would be $2 million) resulting in the company having to pay tax on the other 50% of taxable income. The answer is the latter. And any brought forward tax losses that are not utilized in 2014 ($8 million) would be carried forward to 2015 and the same rules would apply.

June 24 – Charities Act registration

The Charities Act, 2013 ("the Act") took effect on December 24, 2013. It allows charities registered under the Act ("Registered Charitable Organization" or "RCO"), to automatically enjoy specific tax concessions.

Charities that were previously approved by Tax Administration Jamaica prior to January 2014 have a six month transition period, ending June 24, 2014, to register under the Act. During this transition period these charities will continue to enjoy the tax concessions available to RCO's. However, charities approved under the previous regime that are not registered under the Act by the end of the transition process will lose their tax concessions.

The Act indicates that applications made during the transition period by charities that were previously approved are to be processed within 30 days and we are aware of cases where this has been achieved. We are encouraging all charities to complete the registration process as soon as possible.

The registration process under the Act is easier than the previous regime as only one application is made for a charity to become registered. Once a charity is registered as an RCO, it automatically qualifies for a package of tax concessions. This is a vast improvement to the previous regime where separate applications had to be made to different government bodies for different tax concessions. However, the Act now requires more stringent regulations such as the maintaining of proper financial records, Board minutes and notices to the Authority on the change of officers. Further, we note that audited financial statements are required when applying for registration and this may be difficult, especially for smaller charities, which may not be able to bear the cost of an audit.

While it is anticipated that previously approved charities would generally qualify for registration under the new regime, this is not guaranteed as the charity's objective must be consistent with the definition of charitable purpose under the Act to qualify for registration.

June 30 – Hotel Incentives election

"It would appear that taxpayers who are very profitable will be more inclined to stay with the existing incentives as they are the ones who may be better positioned to pass on the higher GCT cost to guests. The ones who are operating at breakeven (or even at a loss) may be more inclined to opt out to the extent they cannot pass on the increased GCT cost to guests."

Various pieces of incentive legislation, including the Hotels (Incentives) Act, were repealed effective January 1, 2014. Beneficiaries were given an option to stay with their existing incentives or to go with the new tax incentives under the Fiscal Incentives (Miscellaneous Provisions) Act, 2013. For those electing to opt out, they were given until June 30, 2014, to take full advantage of the new rules. What many people don't realize is that this does not mean the election has to be made by June 30. You can make the election after that date until the end of the concession period but the tax benefits may be reduced. Notwithstanding the reduced benefits, however, there might be situations where the benefits of delaying the election, for example, if you are in the middle of construction and importing significant building materials, may outweigh the reduced go-forward tax benefits.

To our knowledge, not many hotels have made the election to opt out of the tax incentives. This is not surprising since there is no benefit to making an early election (unless a hotel wants to take advantage of the Productive Input Relief). The Minister of Finance and Planning mentioned during his speech that there are on-going discussions between the tax administration and the tourism sector and encouraged the parties to conclude the discussions with all deliberate speed.

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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Calendar of Significant Due Dates as of January 1, 2014	
MARCH	
15th	Return of Income and Tax Payable and Declaration of Estimated Income and Tax Payable
15th	Assets Tax filing and payment
15th	First Quarterly Statutory Payments for Self-employed Persons/Individuals (SO3) [1]
15th	First Quarterly Estimated Income and Tax Payable by corporate bodies (IT07)
31st	Employers annual return (SO2)
APRIL	
15th	Property tax payment
JUNE	
15th	Second Quarterly Statutory Payment for Self-Employed Persons/Individuals (SO3) [1]
15th	Second Quarterly Estimated Income and Tax Payable by corporate bodies (IT07)
15th	First installment of Minimum Business Tax due
24th	End of transition period for approved charities to register under the Charities Act, 2013
30th	Deadline for election out of incentive regimes
SEPTEMBER	
15th	Third Quarterly Statutory Payment for Self-Employed Persons/Individuals (SO3) [1]
15th	Third Quarterly Estimated Income and Tax Payable by corporate bodies (IT07)
15th	Second installment of Minimum Business Tax
DECEMBER	
15th	Fourth Quarterly statutory payment for Self-Employed Persons/ Individuals (SO3) [1]
15th	Fourth Quarterly Estimated Income and Tax Payable by corporate bodies (IT07)

General Consumption Tax and Employer's Monthly Return (SO2) are also due monthly throughout the year.

[1]Quarterly estimated payments for Income Tax NIS, NHT, Education Tax and HEART contributions

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