

# GCT reform – executing the plan

## The Measures in Context:

The Government of Jamaica (GoJ) tabled a Bill in Parliament on Tuesday, 10 June 2014 entitled the *General Consumption Tax (Amendment) Act, 2014*. It seeks to implement further reforms to Jamaica's General Consumption Tax (GCT) regime. GCT is a form of value-added tax (VAT).

In its Letter of Intent (dated 4 March 2014) to the International Monetary Fund (IMF), the GoJ had set out its Supplementary Memorandum of Economic and Financial Policies (MEFP) under the terms of the IMF Programme. This included a commitment to undertake certain amendments to the GCT regime in an effort to broaden the tax base and improve its administration. This was set as structural benchmark to be implemented by 30 June 2014 and hence explains the timing of the Bill's tabling in Parliament today.

The accompanying table enumerates the various tax reform-related structural benchmarks highlighted in the MEFP, as well as their current status.

Benchmarks	Deadline	Status
Government to implement immediate cessation of granting of discretionary waivers as stipulated in the TMU	Continuous	Met
Parliament to adopt amendments to harmonize the tax treatment for charities across tax types and remove ministerial discretion to grant waivers for charities and charitable purposes	31 May 2013	Met
Government to table a Charities Bill in the House of Representatives	30 September 2013	Met
Government to cease the granting of waivers to charities other than under the Charities Bill	30 November 2013	Met
Government to table Omnibus Tax Incentive Act in the House of Representatives and to eliminate ministerial discretionary powers to grant or validate any tax relief, and put in place a transparent regime for limited tax incentives	30 September 2013	Met with delay
Government to cease the granting of tax incentives under the regime prior to the Fiscal Incentives Legislation	31 December 2013	Met
Broader tax reform to become effective, including modernization of taxes, with limited exemptions, and lower tax rates	31 March 2014	Ongoing
<b>Government to table in Parliament amendments to the GCT Act</b>	<b>30 June 2014</b>	<b>New Benchmark</b>
Government to conduct an entity by entity review of all grandfathered entities and of their specific tax incentives in the context of the new tax incentives legislation by end-2014/15	31 January 2015	

## ***Proposed GCT Reforms at a glance...***

The Bill tabled reflects both:

- (a) new proposals which are intended to be effective from 1 July 2014; and
- (b) existing provisions which were previously implemented by way of Order under the Provisional Collection of Taxes Act.

The most significant reforms contained in the Bill are highlighted in the table below:

- Removal of GCT Deferral for Manufacturers
- Immediate Credit for GCT on Machinery & Equipment Acquired
- Removal of GCT exemption on supplies by IPPs to JPSCo
- Overhaul of GCT Offences and Penalties Regime
- GCT Filing Date to be brought forward – 20 days after month end
- Removal of zero-rating of supplies to Government – GCT withholding mechanism also introduced
- GCT exemption of imported raw foodstuffs of CARICOM origin
- GCT exemption of ethanol used in automotive fuels
- Moratorium on Refund Claims for prescribed period
- Turnover basis to be used as default basis for apportionment of input tax credits
- Brokers & Insurers to be held jointly and severally liable for GCT.
- Reduced interest rate (from 2.5% to 1.5%) on tax payable and refunds due
- Reduced time limit to claim refunds in certain instances
- Exemption from Advance GCT for productive inputs imported
- Zero-rating restricted to imported Printed Matter
- Zero-rating of certain Agricultural & Fisheries inputs
- No GCT offset against SCT and vice-versa
- Zero-rating of supplies paid for by foreign governments/multilaterals
- Zero-rating of transfer of taxable activity as a going concern
- Withdrawal of zero-rating of certain motor vehicle purchases
- Redefinition of exported services
- Relief from SCT/GCT on temporary importations
- New powers for Commissioner General to force register persons for GCT purposes
- Changes to Motor Vehicle SCT Structure
- ‘Registered Person’ status being abolished
- Imported services defined

## ***Proposed Reforms...the major changes***

We now take a more in-depth look at the provisions in the GCT Bill tabled:

### **Deferral and Advanced Payment of GCT**

#### ***Removal of GCT deferral for manufacturing inputs***

Presently, manufacturers of goods which attract GCT are allowed to defer GCT payable on raw materials, intermediate goods, consumables and spare parts imported for the purpose of this taxable activity. This deferral mechanism has provided a cash flow benefit to manufacturers. Pursuant to a broader reform of Jamaica's business-related fiscal incentives, we understand that relief from GCT shall generally not be granted. On this basis, the Bill provides for the repeal of this deferral mechanism with effect from 1 July 2014.

Once repealed, a manufacturer of taxable goods shall be required to pay GCT (at the standard rate of 16.5%) on the importation of these inputs (unless they are otherwise zero-rated or exempt from GCT). The Advance GCT Payment of 5% which is applicable to most commercial imports other than capital goods and petroleum products should not generally apply to these manufacturing inputs given the reforms described below. This GCT should be fully recoverable by the manufacturer (by way of input tax credit) in computing the liability to GCT reflected on his return.

#### ***New Exemption from Advanced GCT Payment***

The Bill also introduces a new exemption from the Advance GCT Payment of 5% which was generally imposed on imports by commercial importers engaged in a taxable activity. Goods qualifying for exemption from customs duties under the Productive Inputs Relief (PIR) regime should not be subject to the 5% Advance GCT upon importation.

A listing of the goods which qualify for relief under the PIR regime (subject to certain conditions) is included in Appendix IV.

### **Refunds and Interest**

#### ***Refund to be made after such period as the Minister prescribes***

Presently, GCT overpaid is refundable from the date the taxpayer claims the refund and no interest shall accrue on same where TAJ pays the refund within three months of its due date. The Bill provides that where in respect of any taxable period that a registered taxpayer has paid tax in excess of what he is chargeable, he shall still entitled to a refund of the excess, *but only after the expiration of such period as the Minister may prescribe*. Furthermore, the Minister may prescribe different periods for different categories of taxpayers (such as manufacturers, hoteliers etc.) Depending on the period prescribed by the Minister, this could place significant cash flow pressures on registered taxpayers. It provides a statutorily mandated cash float for the Exchequer at the expense of taxpayers who have overpaid tax.

Based on the extremely complex wording of the Bill, it appears that after this moratorium has expired, the Minister may further prescribe a period in which no interest (at 1.5% per month or part thereof) shall accrue on the refund due i.e. interest shall only accrue after this second period has expired if the refund is not made.

This moratorium shall not apply where the registered taxpayer can demonstrate that:

- a) He commenced his taxable activity within six months of the taxable period in respect of which he is seeking to claim the refund; or
- b) He makes zero-rated supplies of at least 50% of his total taxable supplies.

### ***Reduced Time Limit for Claiming Refunds***

Generally, a registered taxpayer may claim a refund within six years of the taxable period to which it relates. Where the applicant has ceased to be a registered taxpayer or his GCT registration certificate has been cancelled however, the Bill provides that the timeframe within which the application must be made is two years of the date the applicant ceases to be a registered taxpayer.

### ***Payment of Interest on Refunds***

The Bill provides that where any refund is not made within a time period (prescribed by the Minister) after a refund claim has been made, interest at a rate of 1.5% per cent per month or part thereof arising after this prescribed time period shall be payable to the taxpayer. If the taxpayer may claim the refund immediately, no interest accrues until three months have elapsed after the claim is made.

## **Exported and Imported services**

### ***Redefinition of exported services***

The supply of “exported services” is zero-rated by the GCT Act. The current definition of the term exported services has however been difficult to interpret in practice and it was therefore recognised that a new definition was needed.

The Bill proposes to treat as being “exported services” only services:

- a) which are supplied to a recipient who uses or obtains the advantage or benefit of the service outside of Jamaica;
- b) which are effectively used or enjoyed at the time and place where they are physically performed and the performance of the services takes place outside of Jamaica; and
- c) supplied in relation to immovable property situate outside of Jamaica.

It appears that the inclusion of all three categories as conditions precedent must be an error, since read literally, it is only services “in relation to immovable property situate outside of Jamaica” that could qualify as “exported services”.

Furthermore, we doubt that the intention can be to require that services must be performed outside of Jamaica for them to qualify as exports, since this would run contrary to a major policy thrust of the Government which is to encourage the development of the export services sector through Free Zones, Special Economic Zones and the International Financial Centre etc., the activities relating to all of which will take place in Jamaica. We anticipate that this will be corrected as the Bill makes its way through the legislature.

### ***Imported Services – relevant conditions***

A requirement for a Jamaican purchaser of services to account for GCT on “imported services” was introduced in the GCT Act in 2003. The conditions under which a service is deemed to be imported were never enumerated.

The Bill defines the term ‘imported services’ as ‘*a supply of services to a person who is resident in Jamaica by a person who is –*

- a) not resident in Jamaica; or*
- b) resident in Jamaica from a business carried on by that resident outside Jamaica,to the extent that the services are to be utilized or consumed in Jamaica;’*

The term ‘taxable activity’ is also being amended to include ‘imported services’ but the Bill does not contain any substantive framework for the implementation of GCT on imported services. We understand that this will be implemented by way of Provisional Order shortly and shall subsequently be incorporated into the GCT Act.

### ***GCT Registration***

#### ***‘Registered Persons’ Status no longer maintained***

The Bill contains various amendments designed to discontinue the maintenance of a ‘registered person’ status under the GCT Act. At present taxpayers may register as a ‘registered person’ (say if they are below the turnover threshold) but this does not result in any filing or payment obligation. Based on the amendments proposed, the Commissioner will register a person as a registered taxpayer if his sales (both taxable and exempt) exceed J\$3m per annum (J\$250,000 per month). The Bill also modifies the related administrative rules accordingly.

#### ***Forced Registration for GCT***

The Bill proposes to strengthen the Commissioner General’s ability to “force register” a person as a registered taxpayer under the GCT Act. It provides that if the Commissioner General has reason to believe that a person who is liable to be registered under GCT Act is not so registered, he shall register that person. It further provides that the date of that person's registration shall be the date on which the gross value of supplies made by that person exceeded the prescribed turnover threshold.

Hence having been registered retroactively, it appears that the person will be liable to pay the tax that should have been paid since the effective date of registration. Gone are the preconditions that required the Commissioner to require the person to supply information and apply for registration before he could force register the person. Where the Commissioner General registers a person, pursuant the person may object to the decision.

#### ***Display of GCT Registration***

Every registered taxpayer shall display his certificate of registration in a conspicuous place at the premises in which he carries on the taxable activity and a copy of registration at each business location in which he carries on business.

## Sundry “Fixes”

### **Brokers & Insurers**

The Bill provides that where a taxable activity consists of the provision of a contract of insurance through a broker, the broker and the insurance company shall be jointly and severally liable to account for the GCT to the Commissioner General. We anticipate that this is designed to make brokers liable to GCT on policies written by insurance companies located outside of Jamaica.

### **GCT filing date changed:**

Under current GCT law, the following filing deadlines apply:

- a) Where the registered taxpayer accounts for GCT on a payments basis (which applies to certain services), their monthly GCT Return must be filed within 15 days of the end of the month to which it relates; and
- b) In the case of all other registered taxpayers (who account for GCT on an invoice/accruals basis), their monthly GCT Return must be filed by the end of the month following the month to which the Return relates.

The Bill proposes to adjust the filing date so that the monthly GCT Return must be filed (in either scenario) within **20 days** of the end of the month to which it relates. On this basis the July 2014 GCT Return, for example, would be due for filing by **20 August 2014**.

With payroll taxes due by the 14<sup>th</sup> of each month, income taxes due quarterly on the 15<sup>th</sup> of the month and GCT liabilities being brought forward to the 20<sup>th</sup> of each month, this proposed change is likely to place even more cash flow pressures on registered taxpayers.

### **Signing of GCT Returns**

In an effort to enhance accountability the Bill provides that GCT Returns (or any other document submitted to the Commissioner General) may only be executed by either the registered taxpayer or a person duly authorized on his behalf. In the case of a company the director, secretary or other authorized person shall execute the return or any other document as required.

### **Transfer of a Taxable Activity**

The Bill seeks to make it clear that the sale, transfer or other disposition of a taxable activity (or a part of a taxable activity that is capable of separate operation) constitutes a chargeable supply of goods made in the course or furtherance of the taxable activity.

The supply by a registered taxpayer to another registered taxpayer of a taxable activity, or an independent part of a taxable activity, as a going concern, will be zero-rated if the Commissioner General is satisfied that the transaction meets certain prescribed criteria (as to what constitutes a going concern for this purpose).

Where a person is entitled to acquire a taxable activity on a zero-rated basis, the person shall supply the Commissioner General with proof to his satisfaction of same.

### ***The Basis of Calculating GCT***

The Bill makes a number of modifications to the rules which determine the value of a supply for GCT purposes (on which tax is imposed):

- a) If there is no consideration for the supply, the supply shall be deemed to take place at market value (previously it was deemed to take place at the cost incurred in acquiring the supply).
- b) If the consideration is wholly in kind, the supply shall be deemed to take place at market value.
- c) The value of goods imported includes any duties, charges, levies or fees charged at importation in addition to any customs duty, additional stamp duty and SCT imposed. This was previously implemented by Provisional Order in February 2013.

### ***GCT relief for goods imported on a temporary basis***

The Bill explicitly provides that GCT shall not be payable on goods (nor SCT payable on prescribed goods) where it can be established that the goods are imported for temporary use and the importer will re-export the goods after they are used.

### ***Apportionment of input tax credits***

The Bill proposes that registered taxpayers shall be entitled to claim input tax credits without apportionment provided that their GCT-exempt supplies constitute no more than 5% of the value of their total supplies. Under current law this rule applies only to the extent that the exempt supplies are of minimal value in dollar terms.

Under current law, where the taxpayer incurs GCT on expenditure related to both the making of taxable and exempt supplies, he may claim such portion of the input tax as is attributable to his total taxable supplies. The GCT Act does not however prescribe a specific allocation basis.

The Bill proposes that any such apportionment shall be automatically determined on a turnover basis (i.e. by reference to the value of taxable supplies as a percentage of total supplies) unless the registered taxpayer is of the opinion that an alternative methodology should be applied and he secures approval from the Commissioner General to use same.

### ***GCT incurred on machinery and equipment***

Historically GCT incurred by a registered taxpayer on the importation or purchase of machinery or equipment wholly or mainly for the purpose of making taxable supplies could only be claimed by way of input credit over twenty-four months (with limited exceptions). The Bill intends to abolish this restriction so that such GCT will become claimable in the taxable period in which it is incurred. This is a welcome reform as this restriction increased the cost of investments in such machinery and equipment.

### ***No Input Credit for GCT against SCT***

The Bill contains a number of amendments to both the GCT Act and Regulations which are designed to prohibit a registered taxpayer who manufactures prescribed goods from claiming GCT incurred on his expenses against SCT chargeable on his outputs. GCT input tax will therefore only be claimable against GCT output tax and SCT input tax shall only be claimable against SCT output tax.

### ***Reduction in Interest Rate on unpaid amounts***

The Bill provides that the interest rate chargeable on unpaid amounts be reduced from 2.5% to 1.5% per month or part thereof.

### ***Artificial or Fictitious transactions***

The Bill proposes that the Commissioner be given additional power to address aggressive avoidance strategies. Where the Commissioner General is of the opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious, or that full effect has not in fact been given to any disposition, the Commissioner General may disregard any such transaction or disposition; and the persons concerned shall be assessable accordingly.

## **Offences, Interest & Penalties**

### ***Overhaul of Penalties regime for GCT Offences***

The Bill contains extensive amendments to the current GCT penalties regime which seek to:

- a) reduce the level of penalties imposed for certain offences (which were considered too onerous);
- b) increase fixed rate penalties which were considered to be too low to act as a suitable deterrent;
- c) significantly extend the range of GCT-related offences in respect of which penalties (whether fines or imprisonment) may be imposed.

The Bill also provides that going forward the Minister may by order (subject to affirmative resolution) amend the monetary penalties specified in GCT Act.

Appendix V compares the existing and revised penalties associated with various offences.

If you have any further questions in connection with the above or would like to explore further how the above proposed tax measures may impact your business or personal arrangements, please feel free to contact any member of our specialist tax team listed below or your usual PricewaterhouseCoopers Jamaica contact.

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## *Appendices*

# Appendix I

## Changes in Zero Rating

### Existing Position

#### ***Zero-rating of supplies to Government abolished***

Under current GCT law, goods purchased/imported by and services rendered to:

- (a) Ministry or department of Government;
- (b) a statutory body or authority (excluding certain specified entities);
- (c) any Parish Council or Municipality;
- (d) the Kingston and St. Andrew Corporation;

are liable to GCT at the rate of 0%.

### Proposed Amendments

With effect from 1 July 2014, the following shall apply:

1. Supplies to the government entities no longer be zero-rated and therefore all registered taxpayers must charge GCT thereon at the applicable rate unless the supplies are otherwise exempt or zero-rated.
2. Each of the government entities (as well as any statutory body or authority previously excluded from the above zero-rated treatment) shall be regarded as a 'tax withholding entity' and will be required to withhold the GCT invoiced by the supplier upon making a payment to him.
3. Suppliers required to issue a tax invoice (in the prescribed form) in respect of each supply made to a tax withholding entity irrespective of whether that entity is registered for GCT purposes.
4. A 'withholding tax certificate' must be issued by the tax withholding entity to the supplier within 30 days of receiving the suppliers invoice. This applies irrespective of whether the supplier's invoice is paid within this timeframe.
5. The tax withholding entity must report on a prescribed form (Form 4F) all 'withholding tax certificates' issued to suppliers in each month. This return is due for filing by the end of the month following the taxable period to which it relates. The amount of GCT in respect of withholding tax certificates reported must also be remitted to the Commissioner General at this time by the tax withholding entity. It would appear that this GCT must be remitted regardless of whether the supplier has been paid at this point.

6. The accounting officer of the tax withholding entity shall be responsible for complying with these obligations.
7. Where the supplier accounts for GCT on an invoice basis, he may claim an input credit in respect of the GCT highlighted in the 'withholding tax certificate' in the taxable period the certificate is received. In contrast, where the supplier accounts for GCT on a payments basis, the GCT highlighted may not be claimed until the related output tax is being reported (i.e. in the taxable period in which the supplier actually receives payment of his invoice).

### ***Inputs used in the Fishing Industry***

Taxable

The zero-rated status previously afforded to the following inputs used by the Fisheries sector to be reinstated:

*Fishing apparatus, gear, boats, engines (but not including outboard motors exceeding a maximum of 75hp), equipment and parts thereof which the Commissioner General is satisfied are imported or purchased by or on behalf of or taken out of bond by commercial fishermen solely for use by them in the capture of fish for sale.*

### ***Zero-rating of certain Agricultural Inputs***

Tariff 38.08 Insecticides - Taxable

The Bill proposes to zero-rate insecticides (under Tariff Heading No. 38.08) which the Commissioner General is satisfied are intended for use exclusively in agriculture. It should also be noted that any fertilisers falling within Tariff Heading 31:02 will no longer qualify to be zero-rated for GCT purposes.

### ***Supplies paid for by foreign governments/multilaterals***

Not specifically relieved of GCT

Proposed to zero-rate goods purchased/imported and services performed under a contact, the payment for which is by a foreign government or multilateral lending agency.

### **Imported printed matter**

Historically, the GCT Act has afforded zero-rated treatment to printed matter acquired by certain organisations such as UWI, UTECH, NCU, educational institutions, religious organisations, government institutions, recognised international organisations and diplomats.

The Bill tabled proposes to confine this zero-rated treatment to printed matter imported by these entities.

The basis for this amendment is unclear to us as it can only serve to incentivise the sourcing of printed matter overseas by these entities. Local producers of printed matter would therefore be placed at a relative competitive disadvantage as a result of this measure. In light of this, it is preferable in our view to retain the existing treatment from which local printers can also benefit.

### **Motor vehicles purchased by statutory bodies**

Motor vehicles (of a value not exceeding US\$35,000 C.I.F.) may be imported by certain categories of persons on a zero-rated basis (subject to terms and conditions prescribed by the Minister of Finance

This relief shall no longer apply to the purchase of motor vehicles by a statutory body or authority with effect from 1 July 2014.

### **Electricity Services**

Zero-rated by way of Provisional Order

The Bill proposes to make zero-rated "*the supply of electricity services to or for residential customers for private and domestic use*" permanent.

## Appendix II

### Changes in GCT Exemptions

#### Existing Position

##### **GCT on Prescribed Goods – Ethanol**

Denatured ethanol used for automotive fuels is liable to both SCT & GCT

#### Proposed Amendments

Ethanol used in the blending of automotive fuels to be exempt from GCT. Such ethanol is classified as a prescribed product and therefore is subject to both fixed and *ad valorem* Special Consumption Tax (SCT).

*Comment: This ensures that such ethanol is not subject to GCT in addition to SCT levied (which would represent a disproportionate amount if tax levied thereon).*

##### **Exemption of CARICOM foodstuffs**

Only locally-produced foodstuff benefits from exemption.

The current exemption afforded to raw foodstuff produced locally (as well as the local supply of imported foodstuff) is to be extended to imported raw foodstuff originating from a country that is a member of the Caribbean Community (CARICOM).

*Comments: This will leave only raw foodstuff imported from outside CARICOM being subject to GCT at the point of importation.*

#### **Construction Services**

Construction services are currently exempt from GCT. This exemption does not however extend to the following services:

- (a) the installation in any building or structure of systems of heating, lighting, ventilation, power supply, drainage, sanitation, water supply, fire protection, air conditioning, elevators or escalators;

*Comments: The Bill seeks to further reinforce the exclusion of the above services, as well as tillage operations from this exemption.*

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<b>Existing Position</b>	<b>Proposed Amendments</b>
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- (b) the internal cleaning of buildings and structures so far as carried out in the course of their construction, alteration, extension, repair or restoration;
- (c) painting the internal or external surface of any building or structure;

#### ***Independent Power Providers (IPPs)***

Under current GCT law the supply of electricity by any person who supplies electricity to the Jamaica Public Service Company (JPSCo) is exempt from GCT. This means that independent power providers (IPPs) are unable to recover GCT on their inputs (unlike JPSCo which can).

The Bill proposes to repeal this exemption. Hence, IPPs shall be required to charge GCT at the rate of 16.5% on their supply of electricity to JPSCo (which should be entitled to fully recover same by way of input tax credit). This should in turn enable IPPs to recover GCT on their inputs thereby equalising their GCT treatment vis-à-vis JPSCo.

#### ***Supplies made under a government contract***

Services performed under a “ <i>government contract</i> ” were exempt	Exemption now limited to contracts executed between 15 December 2012 and 31 May 2013
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#### ***Power to deem suppliers exempt from GCT***

Power does not exist

The Bill confers a new power on the Commissioner General whereby he may exempt any person from being registered under the GCT Act. Any such exemption from registration must however be approved by notice published in the *Jamaica Gazette*.

## Appendix III

### Changes in Rates

#### Motor Vehicles

##### **SCT rate on Certain Vehicles**

The Bill proposes modifications to the rate of *ad valorem* SCT imposed on the importation of certain buses (other than those falling in stipulated categories) and motor vehicles with a high engine capacity.

	Current (Gas)	Proposed (Gas)	Current (Diesel)	Proposed (Diesel)
<b>Certain Buses</b>				
Imported by Dealer	0%	13%	0%	5%
Imported by Individuals	0%	25%	0%	15%
<b>Motor Cars, SUVs etc. exceeding 3,500 cc</b>				
Imported by Dealer	30%	20%	23%	13%
Imported by Individuals	40%	30%	30%	30%

##### **Agricultural Pickups**

Historically a 0% rate of SCT has applied to 'trucks commonly known as pick-ups for use in agricultural activity'. The Bill modifies this rate category to apply only to such trucks that have a value not exceeding US\$35,000.00 CIF.

##### **GCT on Second Sale of Vehicles up to ten years old**

The Bill modifies the GCT Act to permit GCT to be charged on the second sale of motor vehicles in Jamaica provided that the vehicle is less than 10 years old (previously eight years old). This was previously implemented by Provisional Order.

#### Special Consumption Tax

The Bill also modifies the SCT rates as follows:

##### **Correction of SCT applied to unmanufactured tobacco**

The Bill corrects the rate (which had been erroneously adjusted by Provisional Order) from J\$10.50 to J\$1.50 per 0.7 grams/1 stick of unmanufactured or refuse tobacco.

##### **Harmonisation of the SCT rate on alcohol**

The Bill also contains the amendments (which were previously implemented by way of Provisional Order) to harmonise the rate of SCT imposed on various categories of alcohol to J\$1,120 per litre of pure alcohol (LPA).

##### **Electronic cigarettes**

It appears that the Bill intends to impose SCT on electronic cigarettes but no rates are specified in the Bill tabled.

## Appendix IV

### Goods which qualify for Productive Inputs Relief

- Raw materials, intermediate goods, consumables or packaging materials used by the importer directly in connection with the production of primary products or the manufacture of goods;
- Machinery and equipment used by the importer directly in connection with the production of primary products or the manufacture of goods or in the quality control testing, packaging, or climate-controlled storage of such products or goods.
- A prescribed list of goods imported by taxpayer for use by him in a hotel or resort cottage, the operation of which is, or upon completion is intended to be, licensed by the Tourist Board under the *Tourist Board Act*.
- Prescribed categories of goods imported by a taxpayer for use by him in a tourism attraction, the operation of which is, or upon completion is intended to be, licensed by the Tourist Board under the *Tourist Board Act*.
- Prescribed categories of goods imported by a taxpayer who is engaged full-time in:
  - the production of motion pictures on a commercial basis, for direct use by that taxpayer in motion picture production (including any part thereof) in Jamaica;
  - the production of sound recordings on a commercial basis, for direct use by that taxpayer in a sound recording production in Jamaica or the Caribbean Common Market.
  - the performance of musical works on a commercial basis, for direct use by that taxpayer (being an individual) in the performance of musical works.
- A prescribed list of healthcare equipment imported by a taxpayer for use solely by him in the operation of a healthcare facility.

## Appendix V

### Proposed Amendments to the Penalties Regime

Offence	Current Penalties	Proposed Penalties
Failure to register as a registered taxpayer	Individual – J\$5,000 Company – J\$10,000	Greater of: (a) J\$10,000; or (b) the tax payable between date registration is due and application is made.
Failure by registered taxpayer to display GCT Registration Certificate	N/A	1 <sup>st</sup> Offence – J\$10,000 2 <sup>nd</sup> Offence – J\$20,000 3 <sup>rd</sup> + Offence – J\$30,000
Failure to pay tax due and payable by due date	Penalty of 15% of tax due	Penalty of 10% of tax due
Failure to File Return by due date	Greater of: (a) J\$1,000 (individual) J\$2,000 (company); or (b) 15% of tax payable.	Greater of: (a) J\$10,000; or (b) 10% of tax payable up to a maximum of J\$100,000
Failure to pay tax or file return by due date for more than two periods in 12 months	Surcharge of 10% of tax payable for third and subsequent failures	To be repealed
Display of false GCT Registration Certificate	Upon summary conviction by RM: fine of J\$5,000 or up to 6 months in prison or both	Upon summary conviction by RM: fine of up to J\$500,000 or up to 6 months in prison or both
Failure to return GCT Registration certificate upon cancellation	Upon summary conviction by RM: fine of J\$5,000 or up to 6 months in prison or both	Upon summary conviction by RM: fine of up to J\$500,000 or up to 6 months in prison or both
Failure to inform re. change in status etc.	N/A	Upon summary conviction by RM: fine of up to J\$100,000 or up to 1 month in prison
Failure to account for tax on self-supplies	Upon summary conviction by RM: fine of J\$5,000 or up to 6 months in prison or both	Upon summary conviction by RM: fine of up to J\$500,000 or up to 6 months in prison or both
With intent to defraud the revenue, a taxpayer enters into arrangement to evade tax	Upon summary conviction by RM: fine of J\$10,000 or up to 12 months in prison or both	Upon summary conviction by RM: fine of up to J\$1m or three times the tax payable if greater or up to 12 months in prison or both
Registered taxpayer collects tax (GCT/SCT) with intent not to remit same	N/A	Upon summary conviction by RM: fine of up to J\$1m or three times the tax payable if greater or up to 12 months in prison or both
Unregistered person collects tax	N/A	Upon summary conviction by RM: fine of up to J\$5m or up to 12 months in prison or both
Failure to keep and present proper books and records	Upon summary conviction by RM: fine of J\$5,000 or up to 6 months in prison or both	Upon summary conviction by RM: fine of up to J\$1m or up to 12 months in prison or both
Making false declarations or statements, furnishing false information, aiding or abetting etc.	Upon summary conviction by RM: fine of J\$10,000 or up to 12 months in prison or both	Upon summary conviction by RM: fine of J\$1m or up to 12 months in prison or both

Offence	Current Penalties	Proposed Penalties
Hinders authorised person in conduct of duties	Upon summary conviction by RM: fine of J\$10,000 or up to 12 months in prison or both	Upon summary conviction by RM: fine of J\$3m or up to 12 months in prison or both
Fails to comply with reasonable requests from authorised officer.	N/A	Upon summary conviction by RM: fine of J\$3m or up to 12 months in prison or both
Threatens, assaults, intimidates or impersonates an authorised officer.		
Improperly attempts to obtains a refund	N/A	Upon summary conviction by RM: fine of up to J\$1m or up to 12 months in prison or both
Failure to issue an invoice	Upon summary conviction by RM: fine of J\$5,000 or up to 6 months in prison or both	Upon summary conviction by RM: fine of up to J\$1m or up to 12 months in prison or both
Other offences relating to issuing and content of invoices	N/A	Upon summary conviction by RM: fine of up to J\$1m or up to 12 months in prison or both
Offences for which no specific penalty is prescribed	Upon summary conviction by RM: fine of J\$5,000 or up to 6 months in prison or both	Upon summary conviction by RM: fine of up to J\$1m or up to 12 months in prison or both
Maximum penalty that may be imposed by Regulations	Upon summary conviction by RM: fine of J\$5,000 or up to 6 months in prison or both	Upon summary conviction by RM: fine of J\$500,000 or up to 6 months in prison or both