

New Tax Measures - New Issues*

Major Tax Measures Announced in National Broadcast

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Introduction:

On 23 December 2009 the Hon. Bruce Golding, Prime Minister of Jamaica addressed the country in a nationally televised broadcast to outline a series of revised tax measures scheduled to be implemented on 1 January 2010. These measures are needed to raise new tax revenues of J\$21.812 billion pursuant to a Medium Term Fiscal Programme. This Programme is a prerequisite to securing funding of US\$1.2 billion from the International Monetary Fund for much needed balance-of-payments support.

This latest announcement follows a presentation in Parliament on 17 December 2009 when the Hon. Audley Shaw, Minister of Finance and the Public Service tabled a series of new tax measures designed to raise J\$21.81 billion for the reasons noted above. In addition to tabling an increase in the General Consumption Tax (GCT) rate of 17.5%, the measures announced on 17 December included a significant broadening of the GCT base with a proposed imposition of GCT on basic foods and a range of other items that are presently exempt from GCT. The measures tabled in Parliament were met with much outcry and the tax package was labelled as highly regressive and particularly punitive on the nation's poor.

In response, the Prime Minister agreed to re-consider the tax package announced with a view to identifying alternative approaches to raise the J\$21.81 billion of new tax revenues needed.

The following table summarises the modified tax measures announced by the Prime Minister:

New Measure	Expected Yield J\$ million
Increase in GCT rate from 16.5% to 17.5%	3,600
15% ad valorem SCT on petroleum products	9,400
Increase in SCT on cigarettes	1,400
Increase in GCT rate from 8.25% to 10% on tourism activities	1,200
Imposition of a 10% GCT rate on electricity:	
- residential consumption	711
- industrial/commercial consumption (net)	742
Advance GCT Payment (5%) on imports	2,900
Increase in income tax rates on higher incomes	1,317
Vehicle license increase and tax on luxury items	<u>542</u>
Total	<u>21,812</u>

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The Prime Minister also announced that all GCT-exempt items (with the exception of electricity) which were originally slated to become taxable with effect from 1 January 2010 **will continue to be exempt from GCT**.

We now outline the tax measures (as modified) in further detail based on the Prime Minister's televised presentation. The precise implication of each measure can only be ultimately determined upon examination of the enabling legislation when promulgated.

Increase in the GCT Rate to 17.5%

The standard rate of GCT will be increased from 16.5% to 17.5% with effect from 1 January 2010. Other existing GCT rates will not be affected by this change e.g. the 25% GCT rate will continue to apply to telephone services.

The increase in Jamaica's GCT rate to 17.5% reflects a continued upward trend since GCT was introduced in 1991 at the rate of 10%. The 2004 Matalon Report on Tax Reform had recommended a standard rate of GCT of 16% combined with a significant broadening of the GCT base. A rate of 17.5% places Jamaica's GCT rate at the highest level among its principal regional counterparts.

From a practical point of view, the announcement just before the commencement of the Christmas holiday season of a GCT rate increase to be effective 1 January 2010 gives formal tax compliant businesses little opportunity to modify their systems, pricing or documentation in order to comply with this new measure. Unfortunately such short notice has been an all too common occurrence when new tax measures have been announced.

Imposition of ad valorem SCT on petroleum products:

In April 2009, the 2009/10 Budget increased the specific special consumption tax (SCT) charged on motor fuels by J\$8.75 per litre. On 17 December 2009, Minister Shaw re-imposed ad valorem SCT at the rate of 15% on "prescribed" petroleum products including:

- ◆ Motor Spirit (including E10 87 and E10 90 fuels)
- ◆ Automotive Diesel Oil
- ◆ Kerosene (excluding Turbo Jet A1 fuel)
- ◆ Marine Diesel Oil

SCT is imposed on the importation or manufacture of prescribed products in Jamaica. Accordingly the Ministry Paper (no. 128) indicates that the 15% ad valorem rate of SCT shall apply:

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- ◆ To the ex-refinery price (inclusive of the specific component of SCT) where the fuel is manufactured (i.e. processed) in Jamaica; and
- ◆ To the value prescribed by the GCT Act where imported.

The imposition of yet further taxes on fuel will be felt throughout the economy given the multiplier effect of increases in the cost of public and private transportation, the haulage of goods as well as electricity production.

Increase in SCT on Cigarettes:

As announced by Minister Shaw on 17 December 2009, the rate SCT on cigarettes (falling within the tariff codes of #2402.20 and #2402.9010) shall be increased from J\$8,500 per 1,000 sticks to J\$10,500 per 1,000 sticks with effect from 1 January 2010. Twenty percent (20%) of the monies raised from this measure shall be remitted to the National Health Fund.

Increase in the GCT rate on tourism activities to 10%:

A reduced rate of GCT of 8.25% (i.e. 50% of the standard GCT rate) applies to tourism activities as defined. For this purpose,

“tourism activities” are defined as a taxable activity consisting of the supply of services of:

- (a) a hotel;
- (b) a resort cottage;
- (c) a site and other facilities or camping;
- (d) tourist accommodations not specified in (a), (b) or (c);
- (e) water sports;
- (f) an attraction;
- (g) a tour operator;

pursuant to a license issued under the Tourist Board Act.

The Prime Minister has now indicated that the GCT rate applicable to tourism activities will be increased from 8.25% to 10% with effect from 1 April 2010.

This is not likely to be well received by the tourism sector, Jamaica’s major foreign-exchange earner. The sector asserts that as it competes on the international market, its activities should be regarded as exported services. Exports of goods and services (within the meaning of the GCT Act) are currently zero-rated under the GCT Act.

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The nature of the tourism business also requires the sector to determine and agree its pricing far in advance of the actual consumption of its product in many instances (e.g. the tourist arriving today may have booked based on a price determined six months ago) thereby making it impossible to adjust its pricing to reflect GCT rate changes in the absence of extended notice. In any event as the sector has had to discount its product significantly in light of global market conditions, we would anticipate that the sector will find it difficult to fully pass on additional GCT chargeable under this measure to tourists.

Imposition of GCT at 10% on Electricity Consumption:

Historically the supply of electricity to the public has been exempt from GCT. On 17 December 2009, the Minister of Finance announced that GCT would be imposed on residential electricity consumption in excess of 200 kWh per month at the rate of 17.5% while supplies below this threshold would be zero-rated.

The Prime Minister has now modified the above so that the following measure shall apply with effect from 1 January 2010:

1. supplies of electricity to residential customers up to 200 kWh per month shall be zero-rated for GCT purposes.
2. Supplies of electricity to residential customers (in excess of 200 kWh per month) and to commercial or industrial consumers shall be subject to GCT at the rate of 10%.
3. Special relief from this GCT shall be afforded to government agencies, hospitals, clinics, schools etc. The precise listing of those qualifying for this relief will be determined in due course.

This measure is therefore targeted to raise additional revenues from the following:

1. Residential consumers who consume higher levels of electricity (who are deemed to be better off and therefore more able to bear the additional tax burden).
2. Commercial and industrial customers whose activities are exempt from GCT. GCT incurred on electricity consumed will not be available as an input credit thereby increasing the cost of electricity to these customers. Sectors which shall be affected include producers and retailers of GCT-exempt basic foods, the banking, life/health insurance and financial services sectors, the construction sector etc.
3. Commercial and industrial customers who operate outside the

GCT net.

An additional consequence of imposing GCT at a zero rate and 10% on the supply of electricity is that it will now entitle the Jamaica Public Service Company (JPSCo) to full recovery of GCT on its inputs (whereas at present this GCT is irrecoverable). The ability of JPSCo to reclaim GCT on its inputs should correspondingly reduce its cost of operations. Customers will no doubt expect that these cost savings will be passed on to them in the form of reduced electricity prices (net of GCT)..

Imposition of Advance GCT of 5% on Commercial Imports:

With effect from 1 January 2010, an additional 5% GCT will be imposed on the commercial import of goods subject to GCT. (the measure is described in a release from the Ministry of Finance to the effect that GCT will be imposed at the port at the rate of 22.5%). We understand that the advance GCT charge shall not apply to the following goods:

- ◆ Prescribed Petroleum Products
- ◆ Capital goods as designated under the Customs Act.
- ◆ Goods imported by manufacturers under the Deferment Scheme pursuant to Section 42 of the GCT Act.
- ◆ Goods that are zero rated or exempt under the GCT Act.

- ◆ Goods imported by persons who are not registered to collect GCT and already have the uplift GCT value applied for calculation.

We understand that this advance GCT payment will be creditable against output tax on taxable supplies subsequently made by the importer. It is unclear at this point in what circumstances the advance GCT payment will be refundable. We are currently seeking to clarify this with the Ministry of Finance.

It is perceived that in many instances commercial importers are failing to account for and remit GCT on their sales. The principal purpose of this measure is therefore to collect at the port a portion of the GCT payable by the supplier when the goods are subsequently sold in the local market. This measure should therefore assist in reducing the disadvantage currently faced by tax compliant formal commercial operations in trying to compete with such tax evaders. As a collection measure, we understand that the advance GCT payment is not intended to result in additional taxation for the tax compliant importers.

The current proposal may however have an unintended consequence in that any advance GCT borne by commercial importers would not be recoverable to the extent that it relates to activities

which are exempt from GCT. While the proposal excludes the application of advance GCT to certain imports, it will still apply to other imports by businesses engaged in GCT-exempt activities. In the event that this advance GCT is not refundable in this instance, then it will result in additional taxation imposed on tax compliant GCT-exempt businesses. In these circumstances, the proposed measure may effectively operate as an additional 5% import charge (which of course would not be chargeable on the domestic supply of such goods).

If implemented as a higher GCT rate imposed on importation, it is also unclear as to the basis on which GCT may be imposed on goods at 22.5% upon importation but at 17.5% if the same goods are supplied within the domestic market. In light of various international obligations, the manner in which this measure will be implemented will require careful consideration.

Finally tax compliant importers (subject to GCT) will need to pay particular attention to the potential cash flow implications for their business given the quantum of advance GCT to be imposed and factor in the additional funding cost of same into their cost structure.

The position may be particularly acute for businesses operating on tight margins or those subject to a lower rate GCT on their ac-

tivities (e.g. exporters, the tourism sector etc.) In the event that their output tax charged does not exceed the increased GCT incurred at the port plus GCT incurred on local purchases and overheads, the taxpayer will suffer yet further finance costs until a refund of the excess GCT suffered is secured from the Inland Revenue.

Imposition of progressive tax rates on higher income earners:

The personal income tax rate is currently 25% and is imposed on statutory incomes exceeding an annual tax-free threshold (J\$441,168 with effect from 1 January 2010).

The Prime Minister indicated that the higher income tax rates shall take effect from 1 January 2010 as a temporary measure and that this imposition would last until 31 March 2011. As the year of assessment for income tax purposes is the calendar year, we are seeking clarification as to how this measure will be applied for the first three months in the 2011 Year of Assessment.

A release from the Ministry highlights in further detail how this measure will be implemented. For the upcoming Year of Assessment (2010) Jamaican tax resident individuals shall be liable to income tax at the following rates:

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Chargeable Income	Taxed at:
J\$0—J\$441,168 (Tax-Free Threshold)	0%
J\$441,169— J\$5,000,000	25%
J\$5,000,001 — J\$10,000,000	27.5%
J\$100,000,001 +	35%

Non-resident individuals chargeable to income tax do not benefit from the annual tax-free threshold.

Pensioners will continue to be entitled to an additional tax-free allowance of J\$80,000 in respect of pension income derived annually from an approved pension or retirement scheme as well as a further J\$80,000 tax-free allowance for persons aged 65 years or over.

This new tax measure will have a significant impact on higher income earners. The following table (which uses the J\$441,168 tax-free threshold in both scenarios) illustrates the additional income tax payable at various levels of chargeable income and compares the current effective tax rate (i.e. income tax payable divided by statutory income) with the proposed effective income tax rate:

Chargeable Income (J\$)	Additional Income Tax Payable (J\$)	Current Effective Income Tax Rate	Proposed Effective Tax Rate
6,000,000	25,000	23.16%	23.58%
8,000,000	75,000	23.62%	24.56%
10,000,000	125,000	23.90%	25.15%
12,000,000	325,000	24.08%	26.79%
15,000,000	625,000	24.26%	28.43%
20,000,000	1,125,000	24.45%	30.07%
25,000,000	1,625,000	24.56%	31.06%
30,000,000	2,125,000	24.63%	31.72%
35,000,000	2,625,000	24.68%	32.18%
40,000,000	3,125,000	24.72%	32.54%
50,000,000	4,125,000	24.78%	33.03%

Increase in Licence Fees on Certain Motor cars/SUVs:

It is proposed that with effect from 1 January 2010 motor cars/ SUVs with an engine size equal to or greater than 2999 cc shall be subject to additional license fees of \$4,000 annually (making the

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minimum fee J\$16,000).

Increase in Customs Duties on Certain Luxury Items:

The Common External Tariff (CET) on the following items will be increased with effect from 1 January 2010:

Item	Current CET Rate	Proposed CET Rate
Plasma/LED, LCD televisions equal to or greater than 30 inches	20%	40%
All terrain vehicles (ATV) and motor cycles equal to or greater than 299 ccs	40%	50%
All guns including shot guns and cartridges and ammunition and parts thereof	30%	50%
Yachts and other pleasure boats including jet skis	20%	40%
Non-petroleum synthetic engine oil	0%	25%
Jewelry	30%	50%

Finally with effect from 1 January 2010, it is proposed to delete Rifle Associations from the Third Schedule to the Customs Act thereby making them subject to taxation. The anticipated revenue yield from this measure is estimated at \$25m per annum.

Important Notice: PricewaterhouseCoopers has prepared this Client Newsletter to alert clients on the new tax measures announced by the Prime Minister of Jamaica on 23 December 2009. The measures are outlined in general terms and for information purposes only and therefore should not be acted upon without securing professional advice

If you require specific advice on the implications of the new tax measures for your business operations or further assistance in connection with any matters outlined herein, please feel free to contact any member of our specialist tax team listed below or your usual PricewaterhouseCoopers Jamaica contact.

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