Tax Administration Jamaica

TAJ keeping you informed

Jan - Mar 2016

Visit us online at:
www.jamaicatax.gov.jm

TAX ADMINISTRATION JAMAICA (TAJ)

Changing the way we do business

From: *Commissioner General*
To: *Valued Stakeholders*

As we come to the final quarter of the 2015-16, we must say that despite challenges, we are encouraged about the partnerships we have with you our valued stakeholders.

Based on results for the last three quarters, we have seen positive outcomes of the strategies and activities being undertaken, based on our National Compliance Plan.

During this quarter, we will be focusing on providing information and support during the income tax filing period, administering legislative changes related to transfer pricing and capitalising on the recent rollout of phase 2 of our Revenue Administration Information System (RAiS). These changes are aimed at improving our efficiencies and making it easier for persons to do business with us.

Additionally I urge you to use our upgraded online service, which will allow you to do so much more, as we continue to improve your doing business experience.

Finally, I take this opportunity to wish for you a productive 2016.

Ainsley Powell
Commissioner General

A new income tax threshold of $592,800 per annum came into effect on New Year's day, January 1, 2016, moving up from $557,232. This will positively impact different categories of persons.

Employers/Employees

The increase in the threshold means that the corresponding tax-free portion to be used by employers, as of January 2016, in making periodic payments to their employees is as follows:

⇒ **$11,400.00 Weekly**
⇒ **$22,800.00 Fortnightly**
⇒ **$49,400.00 Monthly**

This increase is to be reflected on pay slips/ advice presented to employees, who will benefit from paying less tax.

Individuals

In addition to employees, all individuals resident in Jamaica, whether self-employed or pensioners will also benefit from the increase in the income tax threshold.

With the increase in the threshold, the tax paid per annum by each individual will be reduced by $8,892.00.

(i.e. 592,800 – 557,232 = $35,568 x 25%).

The net effect for each individual per quarter will be a reduction in tax of $2,223.00 and $741.00 per month. Income in excess of the threshold will continue to be taxed at 25%.

Self-employed Persons

For self-employed individuals, the new threshold of $592,800 is to be used to file estimated income tax return for the year of assessment 2016, due March 15 and to make payments for the same year in four equal instalments by March 15, June 15, September 15 and December 15 of each year. The corresponding **tax-free portion per quarter is now $148,200.00.**

Pensioners & Golden Agers

Pensioners and persons sixty-five and over are entitled to a pension exemption of $80,000 and an age exemption of $80,000 respectively, in addition to the threshold.

	Y/A 2015	***Y/A 2016***
Pensioners under age 65 years		
Exempt Income [Section 12(z)]	$ 80,000	$ 80,000
Income at Nil Rate of Tax	$557,232	$592,800
Total Tax Free Income	**$637,232**	**$672,800**
Pensioners age 65 years and over		
Exempt Income [Section 12(z)]	$ 80,000	$ 80,000
Exempt Income [Section 12(ab)]	$ 80,000	$ 80,000
Income at Nil Rate of Tax	$557,232	$592,800
Total Tax Free income	**$717,232**	**$752,800**
Individuals age 65 and over not in receipt of pension		
Exempt Income [Section 12(ab)]	$ 80,000	$ 80,000
Income at Nil Rate of Tax	$557,232	$592,800
Total Tax Free Income	**$637,232**	**$672,800**

INCOME TAX FORMS
Income Tax Forms used for year of Assessment 2014 will continue to be used for the year of Assessment 2015, due on March 15, 2016.

RAiS PHASE 2 ROLLED OUT
On December 7, 2015 TAJ rolled out phase 2 of its Revenue Administration Information System (RAiS). This revolutionary system upgrade now allows taxpayers and the TAJ to do more online.

INCREASED ENFORCEMENT
TAJ has stepped up enforcement actions against delinquent taxpayers. This includes arrests for warrants of disobedience. Such cases will continue to be publicized. Persons with returns or payments outstanding are advised to get in touch with the nearest tax office to make suitable arrangements to settle their obligations.

RELOCATION PLANS
On ***Monday, February 22, 2016*** the Cross Roads Tax Office will be relocated to the Henriques Building, 15A Old Hope Road, Kingston 5.

WESTERN TRAINING CENTRE
TAJ recently officially opened a training facility at the Bay West Shopping Complex. The centre will serve the needs of the TAJ staff in the western end of the island.

TAJ Implements
Garnishment Provisions

The Tax Administration Jamaica (TAJ) recently began using garnishment provisions, as it continues in its effort to strengthen operations, improve compliance and recover debt. Policies and legislations related to garnishment were passed in 2014, and became effective April 1, 2015.

To ensure that there is transparency and equity in how these provisions are applied, a policy document has been prepared. This addresses how and when garnishment will be applied. The policy is in keeping with international good practice and is used in several tax jurisdictions.

A summary of the provisions related to Garnishment is as follows:

GARNISHMENT

What is the Garnishment Provision?

Under Section 40B of the Tax Collection Act, the Commissioner General (CG) may, in writing, require from a person who holds, controls or has custody of moneys belonging to a tax debtor, or will be within one year, be liable to make a payment to a tax debtor to pay over moneys for tax debt.

*TAJ may require a third party to surrender forthwith moneys belonging to a delinquent taxpayer on account of taxes owing to the Revenue.

***Individual acts of garnishment will not be publicized.**

How Will Garnishment be Applied?

When the CG knows or has reasonable cause to believe that a third party owes or will owe money in the future to a taxpayer who has not paid his, her or its tax debt, and the CG is unable to make a satisfactory payment arrangement with the taxpayer, the CG may proceed to issue a Garnishment Notice (GN) to the third party requiring that third party to turn over moneys belonging to a taxpayer to TAJ for the payment of the tax debt.

What Can Be Garnished?

Periodic or lump sum payments, which may include:

⇒ Salary, wages, commissions, bonuses, or other amounts to an employee.
⇒ Amounts due to a contractor or subcontractor for labour, goods or services.
⇒ Rent or lease payments.
⇒ Fees or other amounts owing to a professional (where the professional is the taxpayer) (e.g. include lawyers, medical services).
⇒ Annuity payments.
⇒ Interests payments.
⇒ Dividends payments.
⇒ Sales revenue & Accounts receivables.
⇒ Proceeds of an insurance claim.
⇒ Proceeds from the sale of an asset.
⇒ Proceeds of investments.
⇒ Amounts on deposits in a bank or other financial institutions.
⇒ Any other funds held by a third party for the benefit of a tax debtor.

What is a Garnishment Notice (GN)?

A Garnishment Notice informs a third party that he is required to:
⇒ Pay over moneys (in whole or in part) belonging/due to a taxpayer to TAJ (instead of the taxpayer) for the satisfaction of the taxpayers' debt.
⇒ The Notice identifies the taxpayer by name, address, telephone number, TRN and the amount of taxes owed.
⇒ A GN is effected without a court order
⇒ A GN is a legal document and persons are obligated to comply with it. This Notice remains in force until the Garnish-

Garnishment (cont'd)

ee is released or the tax debt has been paid.

⇒ A copy of the GN and support documents must be kept for future reference regarding moneys owed to taxpayer.

How will Garnishment be Operated?

The CG can indicate the proportion to be paid over (e.g. 50%, 80%, 100%). A standard receipt must be generated [S40B (3)]. Once the funds are received the TAJ will issue:

⇒ A Tax Payment Receipt to the taxpayer
⇒ A Garnishment Receipt to the 3rd party
⇒ A release from garnishment will be issued to the garnishee upon receipt of payments and satisfaction of the obligation.

What is the Criteria for Recommending Garnishment?

Before garnishment proceedings are initiated, TAJ will confirm that a tax return has been filed indicating the amount to be paid or an assessment has been raised defining the tax liability; a tax liability (exact amount of money owed) has been determined AND the settlement of audit, objection or appeal has been confirmed; the prescribed time for objection, appeal and collection has expired.

Further, TAJ will ensure that the debtor has not filed an application under the Insolvency Act; the potential for financial hardship is considered; reasonable attempts were made to contact the debtor; all attempts were made/failed to negotiate a mutually acceptable payment arrangement.

In relation to the third party, TAJ will ensure that the third party is liable to make a payment to the debtor within one year;

α. For accounts receivable – when TAJ has knowledge or firm reason to believe that a 3rd party is or is about to become liable to make a payment to the tax debtor within one year, TAJ can issue the GN to intercept those funds;

β. make attempts to confirm the 3rd party source (e.g. bank, employer or accounts receivable) before issuing the Garnishment Notice.

Tax debtor information is duly verified (use of Collection Information Statements (CIS), Credit Report and 3rd party information of various types); The taxpayer should not be a subject for a debt write-off; Garnishment of moneys from tax debtor should not disrupt the viability of a business, or create hardship for the taxpayer.

Additionally, TAJ will examine thoroughly the tax debtor's financial situation before issuing the Garnishment Notice (GN) to avoid adverse situations. As such the following will be considered:

⇒ Landlord/tenant relationship
⇒ Dependents
⇒ Accounts receivable
⇒ Government funded or assistance programs (e.g. PATH Programme)
⇒ Whether Garnishment that may result in cessation of business with employees
⇒ Provision of essential services such as hospital or day care, or charitable organizations (those approved under the Charities Act)
⇒ Concurrent garnishment of bank account and employment income
⇒ Loans
⇒ Pensioners income
⇒ Salary or wage
⇒ Disability
⇒ Any other information that affects income and liability.

The taxpayer will be given every opportunity to settle outstanding amounts, before garnishment is considered.

The full Garnishment Policy document is available on the TAJ website at **www.jamaicatax.gov.jm**

It is important to note that with the introduction of phase 2 of the Revenue Administration Information System (RAiS), TAJ is in a better position to automatically apply charges for failure to file and pay income tax due. Such charges will be applied to outstanding income tax returns/payments due March 15, 2016.

Estimated Assessment

RAiS has been configured to automatically calculate estimated income tax and apply the relevant penalties.

Charges for Late Filing

A $5,000 charge for late filing of income tax returns, both final and estimated, due on March 15, will be automatically applied via RAiS. Business persons, corporate and individuals, are therefore reminded of their obligation to file their Final and Estimated Income Tax Returns on or before March 15.

Applications for Late Filing

In keeping with provisions of the Income Tax Act, the Commissioner General may grant extension to file income tax returns later than March 15. Taxpayers should apply, in writing, citing specific reasons and make payment 'on account', before consideration is given by TAJ.

NB. interest will still accrue on amounts outstanding.

Transfer Pricing - Q & A

What is Transfer Pricing?

Transfer pricing is the setting of the price of goods and services sold between related or connected legal entities in an enterprise. E.g. if a subsidiary sells goods to a Parent company, the cost of those goods paid by the parent company to the subsidiary is known as the transfer price.

Is this consistent with International Benchmarking ?

Yes it is. The Organization of Economic Cooperation and Development (OECD) has provided guidelines, which assist in countries developing these rules. The OECD model provides for standardizing of methods to determine arm's length price, to avoid double taxation and double non-taxation.

Jamaica like much of its regional and international counterparts has been guided by the OECD principles. Some regional countries (Latin America and Caribbean countries) that currently have transfer pricing rules are: Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Panama, Peru, Uruguay and Venezuela.

Why are Transfer Pricing regulations important?

Jamaican income tax laws are founded on the basic principle that income generated from economic activity conducted in Jamaica should be liable for income taxation in Jamaica. So if the subsidiary is located in Jamaica and the Parent is in the United States, what is important is the profitability of the subsidiary company located here and therefore their obligation to pay taxes.

Profit is based on income/revenue earned. Intra-group transactions, if not reported correctly can reduce this profit, as they generally offer opportunities to shift income from one jurisdiction to another.

What happens when companies shift profits?

When related companies within a group shifts profits, it can pose a significant risk to the integrity of a country's tax system, and in Jamaica's case it may reduce already "burdened and limited" tax revenues. So more and more governments have introduced regulations – namely, transfer pricing regulations – to guide how such connected-party transactions are reported for the purposes of calculating tax obligations.

What does the introduction of transfer pricing regulations achieve?

The rules are being put in place to ensure that intra-group transactions among connected parties are structured and conducted in a way that is "fair" by providing for prices that are similar to market rate.

A parent company is really supposed to buy or sell from or to its subsidiary at the same rate/ price as it would have bought/sold from or to a third or independent party. This principle is referred to as the 'arm's length principle'. The arm's length principle is the tenet underlying the current transfer pricing regulations.

This concept has been enshrined in Jamaica's income tax law since 1970. The new transfer pricing regulations merely seeks to strengthen and clarify the methods for establishing the existence of arms-length pricing.

What are these regulations meant to achieve?

These regulations are meant to achieve the following objectives –

1. Ensure fairness in the market, by reducing potential price distortions which ultimately affect competition.
2. It can assist to safeguard company reputation - as increasingly firms, including Jamaican firms, must prove that they are committing to good governance and taxation practices.
3. To ensure tax compliance in Jamaica and by ensuring that all parties pay their fair share of taxation.

Although all the reasons are important, enhanced tax compliance assumes even more importance within an environment where credible fiscal consolidation is an important pre-condition for, and a continuing complementary factor in, sustained economic growth. Enhanced tax compliance means that Jamaica is able to collect taxes to meet critical economic and social infrastructural needs such as hospitals, roads, schools and national security without necessarily increasing tax rates on existing taxpayers.

When do the transfer pricing regulations take effect?

The regulations are introduced for year of Assessment 2015, beginning 1st January 2015. As noted in the law this represents a "trial period", in which entities will be able to become acquainted with the revised reporting requirements. During this time, no penalties will accrue. The full implementation is slated for Year of Assessment 2016, as filed as at March 31st 2017.

Is it a back or retroactive tax?

It should be noted that the measure is NOT a tax. It is formalizing the concept of the arm's length principle, which ensures that the transfer pricing regime adopted by firms are transparent and fairly derived. The application of the measure therefore is NOT retroactive, as the arm's length principle has been in the Income Tax Act since its inception.

When does the penalty take effect?

No penalty or prosecution will take effect now. The penalty will only take effect in 2017, based on reporting requirements for FY 2016.

TAJ is hosting stakeholder sessions.

Transfer Pricing DeMYSTiFieD

The impact of not implementing these transfer pricing rules is illustrated in example below:-

Jamaica World Ltd. is an agro processing company. This company grows crops in Jamaica. They harvest and process the crops and sell the finished product in the United States and other countries. Jamaica World Ltd. is a multinational corporation (MNC with three subsidiary companies

Company 1 - Jamaica Inc. (located in Jamaica)
Company 2 - Haven Inc. (located in a very low/zero tax country)
Company 3 - USA Inc. (located in the United States)

Jamaica Inc.

SELLS Produce to Haven Inc. at a very LOW PRICE of $4

Haven Inc.

BUYS at a very LOW PRICE of $4. SELLS products at HIGH PRICE (almost near to price of finished product) to US Inc. - $15

US Inc.

BUYS at a very HIGH PRICE of $15. SELLS products at MODERATE PRICE, little profit, at $17

⇒ From the example, Jamaica Inc. and Us Inc. have very low profits. Jamaica Inc. sells the produce at very low price and therefore their profits are low and the tax from them will be low.

⇒ US Inc. similarly sells at a low price in comparison to what they bought the semi-finished product for and therefore has a low profit as well.

⇒ In both Jamaica and US, the taxes paid are low, if any, because of the fact that the price in the transactions between these related companies may not have been market driven and so the earnings are "artificially" lowered.

⇒ Haven Inc. benefits. They are different. They bought the products cheaply, incurred no cost, and sold at a very high price, so that company has very high "artificial" profits...BUT GUESS WHAT? Little or No tax, because of where they are located - in a tax haven - very little or no tax. It is possible that the profits from Jamaica has been shifted to Haven Inc.

WHAT COUNTRIES, INCLUDING JAMAICA, WANT TO DO IS TO ENSURE THAT EVERY ONE PAYS THEIR FAIR SHARE OF TAX - EQUITY and TRANSPARENCY. THE TRANSFER PRICE REGULATIONS ASSIST IN DOING THIS.

Ten Tax Tips

Filing Your Income Tax Returns

1 Due Date

The due date for filing income tax returns is **March 15**. Remember you are required to file your annual return for 2015 and estimated return for 2016.

2 Apply income tax threshold related to the correct year

As of January 1, 2016 the income tax threshold is increased to $592,800. This is to be applied to the estimated return for 2016. The threshold of $557,232 is however to be used for year of assessment 2015. Remember that the tax rate for individuals and unregulated companies remains at 25%. Companies regulated by the FSC, OUR, BOJ and MoFP still pay at the rate of 33⅓%.

3 Use correct form

Using the incorrect form may have an implication on how you or your business is categorised. This is particularly important for pensioners or employees, who have no other source of income and are taxed at source, but are claiming a refund on tax paid in excess of their actual liability. Individuals who are self-employed or employed with other sources of income should use the consolidated S04 form, while individuals whose only income is taxed at source, e.g. PAYE or withholding tax, should use the IT05 form. Companies use the IT02. It is also important to use the form related to the correct year.

4 Complete Form Correctly

It is important that all relevant sections of the income tax form are filled in properly. Basic information such as Name, TRN and Address are important. It is also vitally important that accounting information, such as gross sales/income, total expenses, net profit, deductions and tax computation are ALL filled in on the form.

5 File online

It is more convenient and cost effective to file tax returns online, instead of having to wait inline at a tax office. Filing online using the upgraded ***Revenue Administration Information System (RAiS)*** at www.jamaicatax.gov.jm allows you to “Do More” with 24/7 access. Contact the TAJ Customer Care Centre at 1-888-TAX-HELP (829-4357) for details.

6 File Early

File early to avoid the last minute rush. Traffic in the tax office, as well as online gets busier the closer it gets to the March 15 income tax deadline.

7 Keep records

It is in your best interest to keep good records as these can benefit you. Well-kept records may shorten the length of time for an audit; remind you about deductible expenses and credits that you are entitled to; verify your business expenses; keep you informed about the financial position of your business.

8 File return even if you have a loss

All businesses, whether operated as an individual, partnership or company, are required to file an income tax return even if the business makes a loss. In fact, it is in your interest to report the loss, as currently the law allows for up to 50% of business losses to be claimed against profits in any one year.

9 Pay something if not the full amount

File your return on time and pay as much as you can then, allowing you to cut down on interest charges. While you have to make a "down payment" to the TAJ on or by the March 15, you will have to pay interest to the TAJ on what you owe, plus any penalties. Remember also that in relation to the estimated return for 2016, payments are due quarterly, March 15, June, 15, September 15 and December 15, and interest is applicable to late payments.

10 Seek help

If you are not sure how to go about filing your returns or you need assistance call 1-888-TAX-HELP or visit the TAJ website www.jamaicatax.gov.jm. For individuals and businesses earning less than $3 million dollars, TAJ will shortly offer its annual Special Taxpayer Assistance Programme (STAP), at various locations across the island.

Visit the Tax Administration Jamaica Website @ wwww.jamaicatax.gov.jm for more information

TAJ Out & About

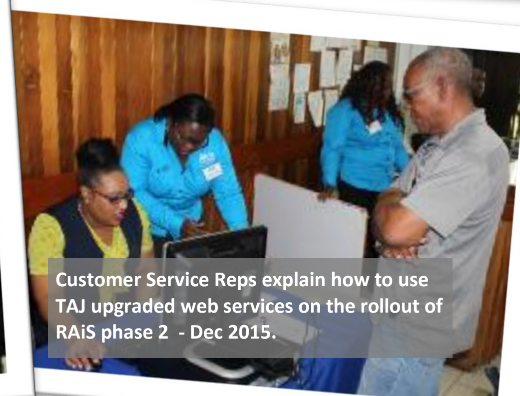
Commissioner General, Ainsley Powell greets Warren McDonald, JCC President at their meeting - Jan 2016

Chief Technical Advisor, Bevon Sinclair addresses EXIM Bank's Book Keeping Seminar - Jan 2016

TAJ Taxpayer Education Officer, Jeneva Craig, speaks with students at YEA Expo - Nov 2015

Deputy Commissioner General, Dave Jeffery chats with participants at TAJ's Transfer Pricing Seminar in Kingston - Jan 2016

TAJ, along with Consultants of OECD, World Bank & IMF, meets with the Tax Committee of ICAJ on Transfer Pricing - Jan 2016



Customer Service Reps explain how to use TAJ upgraded web services on the rollout of RAiS phase 2 - Dec 2015.

SPECIAL TAXPAYER ASSISTANCE PROGRAMME

Customers Service Reps when STAP made a stop at the May Pen Revenue Service Centre in a previous year.

Tax Administration Jamaica (TAJ) is again hosting its annual Special Taxpayer Assistance Programme (STAP). From February 1 through to March 31, TAJ Taxpayer Education Teams, with support from other staff, will be offering assistance to small business operators and individuals to file their Income Tax Returns and Employers Annual Return, due March 15 and March 31, respectively.

Customers waiting to get assistance at the St. Andrew Revenue Service Centre .

Operators of a Micro, small and medium sized enterprises (MSMEs) and individuals will be able to visit any one of the STAP sessions to get assistance to complete their returns. The sessions will be held island wide. This year's focus will be on online filing.

Persons are urged to take advantage of the free STAP. A schedule of the sessions is published on the TAJ website www.jamaicatax.gov.jm. Persons will also be able to get the information by contacting 1-888-TAX-HELP (829-4357).

Jan - Mar
AGENDA

The TAJ team has several stakeholder engagements during this last quarter of the year, as we continue our thrust to increase taxpayer education.

Some activities on the calendar are:

January 19 & 20
TAJ Transfer Pricing Workshops for Stakeholders in Kingston and Montego Bay

February 1 - March 31
Annual Special Taxpayer Assistance Programme for small business operators - various locations Island wide.

February 18
Jamaica Information, Technology and Services Alliance Sensitisation Session on Withholding Taxes

February 19
Jamaica Co-operative Credit Union League Sensitisation Session on Transfer Pricing
JCCUL

March 3
UTECH Accounting Seminar Panel Discussion
UTECH

March 31
JAMPRO Business Environment Roundtable
Pegasus

FOR MORE INFORMATION

Tax Administration Jamaica (TAJ) would be pleased to provide you with more information about our programmes, projects, time lines, plans and contract opportunities. If you are interested, please contact:

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Kingston 10, Jamaica, W.I.,
CUG: 839-9417, Tel.: 922-8742, Fax: 754-9593, email: communications@taj.gov.jm

We will continue to engage our stakeholders in discussions and provide regular updates.