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Technical Paper: “**Corporate Tax Credit: Income Tax Credit for Micro, Small, and Medium Enterprises**”

TECHNICAL ADVISORY

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Abbreviations and Glossary of terms

- The following list defines various terms and abbreviations used in this Technical Advisory.

Body corporate subject to income tax	Any corporate entity which has a legal existence, wherever resident, other than whose entire income is by section 12 or any other enactment exempted or relieved from income tax;
CTC	Corporate Tax Credit
Effective date	The date the Corporate Tax Credit Bill became law, unless otherwise designated.
ETC	Employment Tax Credit
FY	Fiscal Year
GDP	Gross Domestic Product i.e. the total value of goods produced and services provided in a country during one year
GOJ	Government of Jamaica
IT	Income Tax
ITA	Income Tax Act
MoFP	Minister of Finance and the Public Service
MSMEs	Micro, Small, and Medium Enterprises
Permitted Accounting	Permitted accounting period, in relation to any person, means the accounting period, other than a 12-month period ending December 31 st , in respect of which the gains or profits of any trade, profession or business carried on or exercised by that person are permitted or required to be computed pursuant to Sections 6 (2), 6 (3), 5, or 6 (4) of the ITA.
Gross Revenue	The total amount of income generated by the sale of goods or services related to the company’s primary operations
TAJ	Tax Administration Jamaica
The House	House of Parliament
Tax Credit	A tax credit is an amount that may be subtracted directly from the tax payable by a taxpayer.
Y/A	“Year of assessment” - the period of twelve months commencing on the first day of January in each year. (Section 2 of the ITA)

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Purpose

2. The purpose of this Technical Advisory is to provide guidance in the administration of the provisions of the Income Tax Act in respect of the new ***Corporate Tax Credit*** that is available to Micro, Small and Medium Enterprises (MSMEs) as announced in the 2020-2021 Revenue Measures tabled in the House of Parliament by the MOFP, Dr. the Honourable Nigel Clarke.

Objectives

3. In alignment with the prospects of the GOJ’s initiative, the objectives of this Advisory are to:
 - i. provide clear procedures and relevant information to TAJ’s stakeholders on the administration and utilization of the Corporate Tax Credit;
 - ii. ensure that stakeholders are aware of the requirements of the amendment to the Income Tax Act (Section 32B) as it relates to the eligibility for the tax credit;
 - iii. provide guidance as it relates to accounting for the tax credit; and
 - iv. provide an awareness as to the obligations of the eligible person to benefit from the Corporate Tax Credit.

Legislation

The Income Tax Act

Amendment to the Act

Section 32B of the Income Tax Act

Implementation Date

4. The effective date of the legislation is for the **Year of Assessment (YA) 2020**.

Background

5. The 2020-2021 Revenue Measures were outlined to the House on March 10, 2020, and as per Ministry Paper #14/20, Revenue Measures – FY2020/21 in which the MoFP asked the Honourable House to support an introduction of a proposed non-refundable corporate

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income tax credit of JA \$ 375,000 for MSMEs with effect from year of assessment (Y/A) 2020 onwards. The Corporate Tax Credit is available for companies (regulated and unregulated who file income tax returns) with annual gross sales/revenues of JA\$500 million or less.

6. The Honourable Minister in recognizing the MSMEs as an integral part of the country’s economic activity has iterated the GOJ’s initiative in his speech to the House of Parliament in his pronouncement that “the more we incentivize formalization, the more we capture their contribution to growth”¹.
7. The measure is expected to:
 - i. return funds to the people of Jamaica, specifically, the MSME;
 - ii. minimize the tax burden on small taxpaying business operators;
 - iii. capture their contribution to national growth;
 - iv. encourage small business to become formalized and by extension widen the tax base;
 - v. incentivise compliance for Tax Administration Jamaica.
8. Cabinet has since approved the implementation of the annual Corporate Tax Credit of \$375,000.00 for bodies corporate with annual gross revenues or sales less than or equal to \$500 million. This will take effect for year of assessment 2020 and beyond. To give effect to the same, the Income Tax Act was amended with the insertion of a new section (Section 32B) to provide for an annual corporate income tax credit of \$375,000.00 for micro, small and medium size entities.
9. Taxpayers who are eligible for the corporate income tax credit will also be able to benefit from the Employment Tax Credit (ETC) provided that the conditions for claiming ETC are met.

Who is entitled to claim the new Corporate Tax Credit?

10. In order to be entitled to claim the Corporate Tax Credit the person must be a regulated or unregulated body corporate subject to income tax with annual gross revenues or sales of less than or equal to \$500 million.

¹ Ministry Paper#14/20 Revenue Measures –FY2020/21

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11. Essentially, any body corporate other than those entities specifically prohibited by the amendment as listed in paragraph 12 below, including a body corporate whose income is not exempt from income tax under the provisions of the Income Tax Act or any other ministerial order or parliamentary affirmative resolution will be entitled to claim the corporate tax credit, provided the prescribed threshold is met.

Who is not entitled to claim the new Corporate Tax Credit?

12. The following persons as expressly prescribed in the amendment are ineligible to benefit from the Corporate Tax Credit:
- i. Building Societies and Societies registered under the Industrial and Provident Societies Act;
 - ii. A body corporate who has been declared by order of the Minister under section 4 or 7 of the Urban Renewal (Tax Relief) Act to be an approved developer or an approved organization;
 - iii. A body corporate who is a developer or occupant who is entitled to benefit from the tax incentives and reliefs in the First Schedule to the Special Economic Zones Act;
 - iv. A body corporate that has been declared by order of the Minister under section 2 of the Bauxite and Alumina Industries (Encouragement) Act to be a recognized bauxite producer or recognized alumina producer or both as the case may be;
 - v. A person who is benefiting from the incentives in the Seventh Schedule of the Income Tax Act. (Junior Stock Exchange).

Obligations of MSMEs whose annual gross revenue is \$500 million or less

13. The Income Tax (Amendment) Act, 2020 has inserted a new provision (Section 32 B) into the Income Tax Act. This means that from year of assessment 2020, the new Corporate Tax Credit of JA\$375,000 will be available for regulated and unregulated companies with annual gross sales or revenue of JA\$500 million or less.
- i. Any amount of Corporate Tax Credit that is not utilized in any year of assessment may not be credited against tax payable in any other year of assessment and cannot be the subject of a refund.

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- ii. A body corporate shall not defer trading income which ought to be accounted for to another year of assessment which effectively reduces the gross income to an amount of J\$500 million or less.
- iii. A body corporate shall not transfer sales revenue to a connected party which ought to be accounted for by the first body corporate where the effect of such transaction is to reduce the gross income to an amount which meets the prescribed threshold to be eligible for the corporate tax credit.
- iv. Where the Commissioner General makes such a determination with regards to the transactions in (ii) and (iii) above, such deferred or transferred revenue will be deemed to be the revenue of the first body corporate in the year of transfer or deferral.
- v. Where a body corporate is entitled to claim both the ETC and Corporate Tax Credit in any year of assessment, the Corporate Tax Credit is to be applied against the income tax liability before the ETC.

Treatment of bodies corporate using a Permitted Accounting Period

14. For the year of assessment 2020 an eligible person with a permitted accounting period, in accordance with Section 6(2) of the Income Tax Act, for the purposes of any claim for the Corporate Tax Credit shall be allowed to claim as a credit the amount of \$375,000.00 irrespective of the start date of the accounting period in the Y/A 2020.

Summary

15. The initiative will benefit both regulated and unregulated entities whose gross revenue/sales does not exceed the JA\$500 million annually and who files income tax returns, with the exception to those entities specifically identified. Under the new Revenue Measures both regulated and unregulated MSMEs who meet the required conditions will:
- i. receive a Corporate Tax Credit of \$375,000 against the liability of their taxable income in the current year
 - ii. continue to benefit from ETC, subject to the availability of tax payable against which the ETC is to be claimed
 - iii. claim the Corporate Tax Credit before making a claim for ETC

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- iv. not be permitted to request a refund of any unused portion of the corporate tax credit
- v. be required to utilize the Corporate Tax Credit in the year in which it is granted
- vi. not be allowed to carry forward any unused portion of the Corporate Tax Credit against income tax liabilities in subsequent years.

ILLUSTRATIONS

Application of the Corporate Tax Credit for the Y/A 2020 and beyond

Scenario # 1

Taxpayer Alpha Limited is an unregulated company which earns gross revenue of \$400 million in the YA 2020. After calculating the chargeable income of \$12,800,000, the income tax liability for the tax year is \$3.2M. The company also is eligible for ETC up to \$1,000,000, based on statutory contributions paid.

- Is Alpha Limited eligible for the Corporate Tax Credit?
- How should the Corporate Tax Credit be applied?

Response

- Taxpayer Alpha Limited has annual gross revenue of \$400 million. The company is therefore eligible for the corporate income tax credit of \$375,000 which it would be allowed to claim as a tax credit against the \$3.2M, being tax payable for that tax year.
- Application of the Corporate Tax Credit

Gross Revenue	\$400,000,000
Chargeable Income	<u>12,800,000</u>
Tax liability @25%	3,200,000
Less Corporate Tax Credit	<u>375,000</u>
Balance remaining of tax liability	<u>2,825,000</u>
Less ETC	<u>960,000</u>
Balance of tax payable	<u>\$1,865,000</u>

The maximum of corporate income tax creditable against the \$3.2M is \$375,000. The remaining tax liability would be \$3.2M less \$375,000 i.e. \$2,825,000. The ETC would be claimed subsequent to the claiming of the Corporate Tax Credit restricted to 30% of the tax liability of \$3,200,000 arising from trade.

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Scenario # 2

Taxpayer Beta Limited is a regulated company which earns gross revenue of \$500 million. The chargeable income is \$60,000,000.

- i. Is B Limited entitled to the Corporate Income Tax Credit?
- ii. If the answer is yes, calculate the tax payable by company utilizing the tax credit.

Response

- i. Yes. The tax credit is available to both regulated and unregulated body corporates.
- ii. Calculation of tax payable applying the corporate tax credit.

Chargeable Income	\$60,000,000
Tax @33 1/3%	20,000,000
Less Corporate Tax Credit	<u>375,000</u>
Balance of Tax Payable	<u>19,625,000</u>

Scenario # 3

Taxpayer Gamma Limited is an unregulated company with annual gross revenue of \$50,000,000. After the appropriate deductions and exemptions, the chargeable income amounted to \$1,000,000. Being an unregulated company, the tax liability at the rate of 25% amounted to \$250,000.

How should the taxpayer apply the corporate tax credit?

Response

Chargeable Income	\$1,000,000
Tax at 25%	250,000
Less Corporate Tax Credit (restricted)	<u>250,000</u>
Balance of Tax Payable	NIL

The corporate tax credit is restricted to the amount of tax payable since the tax is less than the credit allowed. The balance of the credit of \$125,000 (\$375,000 - \$250,000) cannot be claimed as a refund and cannot be carried forward to any other year of assessment.

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Scenario # 4 -Company Making a Loss

Delta Limited has gross revenue of \$450,000,000. After taking into account all the appropriate deductions and exemptions, the company made a loss of (\$25,000,000).

What are the implications for the corporate tax credit?

Response

The company has met the prescribed threshold to qualify for the corporate tax credit. Despite meeting the threshold, the company is unable to claim the tax credit of \$375,000. There is no chargeable income hence no tax is payable in this case. Although the company was not able to benefit from the Corporate Tax Credit, the amount cannot be carried forward to any other year of assessment and cannot be the subject of a refund.

Scenario # 5 – Gross Revenue Exceeding \$500 Million

Taxpayer Epsilon Limited has a gross revenue of \$505,000,000 and a chargeable income of \$80,000,000. Tax liability is \$20,000,000.

Is Epsilon Limited entitled to the Corporate Tax Credit?

Response

No. Taxpayer Epsilon’s gross revenue exceeds the prescribed threshold of \$500,000,000 hence the company is not entitled to benefit from the Corporate Tax Credit.

Scenario # 6- Multiple Sources of Income

Thonmara Ltd is a manufacturer and distributor of industrial hoses and belts. It also owns a plaza on Half Way Tree Road from which it earns rental income as well as shares in another company from which it earns dividends. Its results for the year of assessment 2020 are as follow:

- Gross Sales \$410,000,000
- Rental Income \$ 85,000,000
- Dividends \$15,000,000
- Total Income \$510,000,000**

- Tax payable \$32,875,000

Is the company entitled to the Corporate Tax Credit?

Response

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Yes, because the gross revenue is \$410M which is less than \$500M

Scenario # 7 - Sole Trader

Randy’s Architectural Services is the registered trade name by which Randolph Wilkins operates his architectural practice. Mr. Wilkins has indicated that his gross revenue and tax payable for the year of assessment 2020 are as follows:

- Gross Sales \$83,000,000
- Tax payable \$2,875,000

He has also asked whether or not his business is eligible for the corporate tax credit, given that the business name is registered with the Companies Office and has income less than the \$500M.

Response

No, he is not eligible for the credit because it is available to corporate bodies only and he is a sole trader.

NB: This is the same treatment for individuals trading as a partnership.

Scenario # 8- Taxpayer Benefiting Under Other Incentive Act.

BPO Ltd transitioned from the Free Zone to the Special Economic Zone as an occupant in 2019. In respect of the year of assessment 2020 it had the following results:

- Gross Sales \$165,000,000
- Tax payable \$4,875,000

How much Corporate Tax Credit is the company entitled to?

Response

None, Section 32(B) (3) (c) of the Income Tax Act stipulates that companies which benefit as an occupant or a developer under the Special Economic Zones Act are not eligible for the Corporate Tax Credit.

Scenario # 9 – Permitted Accounting Period

Raphael Ltd is a retail distributor of hardware items. Its permitted accounting period is 1st February to 31st January. In respect of the year of assessment 2020, the company had the following results:

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- Gross Sales \$165,000,000
- Tax payable \$4,875,000

The managing director was most delighted to learn of the Corporate Tax Credit but is concerned about his eligibility for the credit for that year, given that the credit came into effect year of assessment 2020 and eleven of the months in the company’s financial year was in 2019. Advise him.

Response

The company is entitled to the full credit for the year of assessment 2020. Section 32B (2) of the Income Tax Act stipulates that the credit is for the year of assessment irrespective of the permitted accounting period.