

# Tax Newsflash

## Jamaica

April 23, 2009

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### 2009/10 Tax Package

Amidst wide speculation on the extent of the impending tax package to be imposed by the Government in the new fiscal year, the Honourable Audley Shaw, Minister of Finance and the Public Service, opened the 2009/10 Budget Debate today, tabling Ministry Paper No. 26/09, containing the new revenue measures to be effected.

Being the Golding Administration's second Budget Presentation since taking office, the measures could be taken as indicative of the Administration's policy direction and its strategy to respond to the effects of the present global economic crisis. What is evident is that the administration is committed to further implementing the recommendations under the Final Report of the Tax Policy Review Committee to the Government of Jamaica, prepared in 2004, by the Matalon Committee (hereafter called "the Matalon Report").

### Withholding Tax on dividends to non-residents

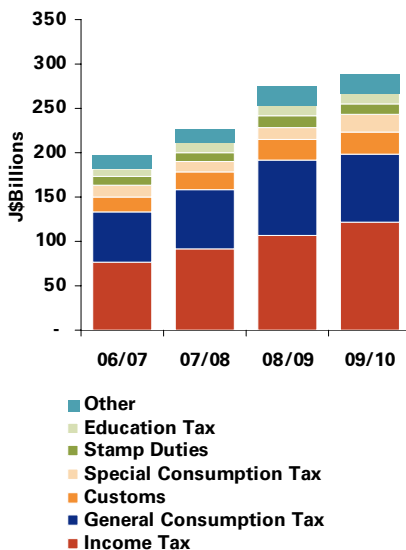
The Ministry of Finance and the Public Service ("the Ministry") proposed that effective July 1, 2009 all non-resident shareholders of listed companies in Jamaica will be subject to withholding tax on dividends at 33 1/3%.

*This measure is consistent with the announcement made by the Prime Minister in December 2008 to allow tax-free dividends from local companies to resident shareholders only. That measure, although announced to take effect on January 1, 2009, has not yet been legislated. Notwithstanding the December announcement, the Minister's announcement today suggests that non-resident shareholders of listed companies continue to enjoy tax-free dividends until June 30, 2009.*

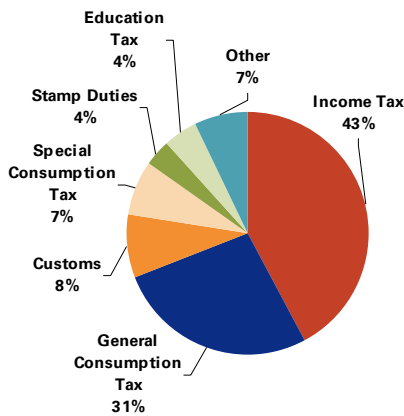
*The Ministry Paper provision, however, raises two concerns. Firstly, it suggests that all non-resident shareholders (individual or body corporate) will be subject to taxation at 33 1/3%. This is inconsistent with present provisions under the Income Tax Act that imposes taxation at 25% on individuals.*

*Furthermore, in relation to shareholders resident in countries with which Jamaica has Double Taxation Treaties, such Treaties usually prohibit, in each contracting state, tax treatment that discriminates against residents of the other contracting state.*

**Growth in Taxes**



2009/10 Sources of Tax Revenue



## Reform of General Consumption Tax (GCT) regime

Effective April 27, 2009, the Ministry intends to implement what the Ministry Paper termed “the main area of reform in this phase” – reducing the number of items listed as exempt under the GCT Act. The Ministry Paper, however, only specifies a few goods which would become taxable, including books, computers, computer parts and accessories.

*On closer examination of the Ministry Paper, however, it appears that there may be greater implications of the announcement which could explain why it is considered “the main area of reform”. The GCT Act lists both goods and services as exempt, however, the Ministry Paper was silent on which, if any, exempt services might become taxable.*

*In this regard, it should be noted that the following services are currently exempt:*

- *Construction services;*
- *Utilities such as light and water;*
- *Transportation of people;*
- *Residential rental;*
- *Health and life insurance;*
- *Services rendered at the sea ports and air ports*

*If these services were made taxable, the reform would be in keeping with the recommendations of the Matalon Report to shift focus from direct taxation to indirect taxation. We look forward to receiving confirmation that the status of the above has not changed.*

## Increase in the Individual Tax-Free Threshold

The Ministry proposed to increase the tax-free threshold as follows:

- From \$220,272 to \$320,736 effective July 1, 2009; and
- From \$320,736 to \$441,168 effective January 1, 2010.

*Presumably the “time apportioned method” of calculation, used by the Revenue Department during previous threshold increases in 2005 and 2008 will be applicable here. The effective tax-free threshold for the calendar year 2009 would be \$270,504, an increase of \$50,232. Taxpayers will, therefore, enjoy a monthly increase in take home salary of \$2,093 from July to December 2009.*

*The change in the tax-free threshold for 2010 will result in an increase in take home pay by a further \$3,556 per month.*

## Increase in the Tax-Free Threshold for pensioners

Effective July 1, 2009, it is proposed that, in addition to the increased individual tax-free threshold, pensioners enjoy an increased tax-free “pension relief” of \$80,000 per annum (up from \$45,000 per annum). The Ministry has indicated that the pensioners’ total tax-free threshold will be:

- For pensioners aged 55 – 65 years - \$400,736 per annum; and
- For pensioners aged 65 years and over – \$ 480,736 per annum.

*The Ministry Paper only refers to an increase in the pension relief provided under the Income Tax Act, however, based on an analysis of the figures quoted by the Minister, the increase also applies to the “age relief” allowed to persons who have attained the age of 65. The effective amounts for 2009 using the “time apportioned” method will be as follows:*

- For pensioners aged 55 – 65 years - \$333,204.
- For pensioners aged 65 years and over – \$395,504.

### Payroll Tax Consolidation

The Minister has indicated that the long promised consolidation of statutory deductions will take effect on July 1, 2009. The stated aim of the consolidation is to facilitate the payment of all payroll taxes to one entity so as to alleviate the cumbersome and time consuming practice of employers having to file and pay taxes at different agencies.

*The Minister did not elaborate on the details of the consolidation of the statutory deductions. The elimination of the measure from the Ministry Paper suggests that the move may be revenue neutral. However, we understand that consideration may be given to removing the NIS cap (i.e. \$500,000) as part of the consolidation process. Further, the Matalon Report had recommended that the education tax be discontinued. We are, therefore, unsure of the revenue effect of the exercise and also the administrative details in relation to the consolidation. We expect that the Minister will bring clarity to the issue by providing additional details in the coming days.*

### Large Taxpayer Office (LTO)

The recent establishment of the LTO at the Constant Spring Revenue Services Centre was highlighted by the Minister as one of the key tax-related reforms which are part of the long-term economic framework. The office is expected to interact with taxpayers with turnover in excess of \$500m or who pay taxes in excess of \$50m per annum. The office will cater exclusively to 3% of taxpayers, described by the Minister as the “key 3%”, who contribute 80% of the taxes in Jamaica.

The Minister indicated that the establishment of the office would enable tax administrators to interact with industry leaders in an attempt to improve the service offering of the Revenue Administration and the overall tax compliance.

*The increased customer service to this very important group is a welcomed sign. The LTO will also incorporate a large case audit unit which, we understand, will be staffed by some of the best minds in the tax administration. This appears to be a concentration of the best audit resources on the taxpayer grouping which contributes the most taxes.*

### Increase in the Special Consumption Tax (SCT) and Customs User Fee on Petrol

On April 27, 2009, the tax structure on petroleum products will be changed and the tax effectively increased.

The proposals are:

- Increase of the specific component of the SCT by \$8.75 per litre;
- The ad valorem component of the SCT on petroleum products will remain frozen; and
- Increase of the customs user fee on imported finished petroleum products (excluding those imported under the PetroCaribe Agreement) to 5%.

### New Specific SCT on Petrol

The specific SCT rates on petrol products have been revised as outlined below.

Proposed Changes to SCT on Petrol			
	Existing Specific SCT (per litre)	Proposed Specific SCT (per litre)	Increase in Specific SCT (per litre)
<b>Unleaded 90</b>	7.7292	<b>16.4792</b>	<b>113%</b>
<b>Unleaded 87</b>	7.3561	<b>16.1061</b>	<b>119%</b>
<b>Diesel</b>	6.6645	<b>15.4145</b>	<b>131%</b>

*The Minister has increased the SCT payable on petroleum products by over 100%. The SCT on petroleum products is included as a cost component of the price charged to retailers. The retailer's margin on the SCT coupled with the increase in the customs user fee on imported finished petroleum products, will determine the eventual price at the pumps.*

### Increase in GCT on Telephone Instruments

On April 27, 2009, the GCT rate applicable to telephone instruments will increase from 16.5% to 20%.

*This brings the rate charged on the instruments in line with the rates applicable to telephone call charges and calling cards.*

### Removal of Personal Income Tax Preferences

The Minister indicated that, effective July 1, 2009, all allowances be brought into the tax net at the full rate of 25%. The Ministry Paper refers to these allowances as "personal income tax preferences" and also indicates that these are accommodation benefit, gratuities and other tax-free allowances.

The Ministry Paper indicated that accommodation benefit is currently taxed, on the employee, at 15% with the landlord accounting for the remaining 10%. The Ministry Paper went on to state that the current scheme had created significant administrative difficulties for the tax administration as they had challenges verifying the amounts.

*From the wording of the statement in the Ministry Paper, there seems to be a misunderstanding of the taxing of the benefit and the Minister needs to bring clarity on the intention of the Government as it relates to the taxation of accommodation benefit and the specifics of the changes to be implemented.*

*The Minister did not elaborate on the exact nature of the other tax-free allowances and in this regard, there may be some question as to what he considers a tax-free allowance and a genuine reimbursement to employees.*

*The Minister may need to provide further details on these personal income tax preferences.*

### Reduction in Stamp Duty and Transfer Tax

Effective January 1, 2010 the Ministry has proposed to reduce Transfer Tax from 5% to 4% and to reduce Stamp Duty from 4.5% to 3%.

*We note that the Ministry intends to surpass the reduced transfer tax rate recommended by the Matalon Report (5%). These measures are intended to stimulate the real estate and*

construction industries, however, in relation to transfer tax, the rate reduction should also apply to the taxation of capital distributions. This has been the trend in recent legislative amendments to the Transfer Tax Act which have gradually reduced the transfer tax rate. The Golding Administration appears to be moving toward implementing the Matalon Report recommendation of eliminating transfer tax on capital distributions and on the transfer of debt and equity securities (shares).

Further, we expect that this reduction in transfer taxes will reduce death duties applicable to estates transferred on deaths which occur on or after January 1, 2010. We note that, although the Ministry has been gradually effecting the recommendations of the Matalon Report in relation to reducing transfer taxes, no step has yet been taken to implement the recommendation to remove death duties on estate property other than land.

## Other Measures

### Self-employed persons targeted

The Minister indicated the Revenue Department’s renewed thrust to bring non-compliant self-employed professionals into the tax net. A Forensic Data-Mining Intelligence Unit has been established to identify and pursue such delinquent self-employed persons.

### Amnesty

In an effort to widen the “tax net”, another amnesty, this time only for unregistered persons, is in place and will run until October 31, 2009. The Minister has encouraged persons who are outside of the “tax net” to voluntarily regularise their tax affairs. Under this amnesty, the Minister states that, prior year liabilities will not be pursued.

*It is not clear which tax type, other than income tax, will be facilitated under the amnesty.*

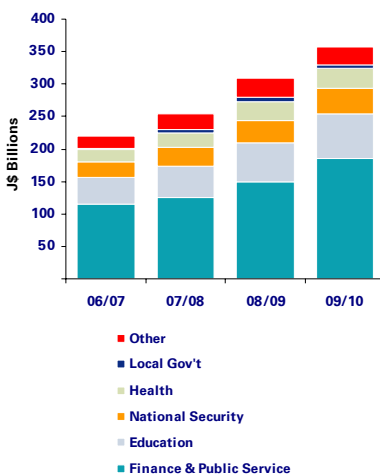
### Expenditure

The estimates of expenditure, for the fiscal year 2009/10, totaled J\$547.7B. The estimates of expenditure is comprised of net recurrent expenditure budgeted at J\$356.3B and net capital expenditure budgeted at J\$191.4B.

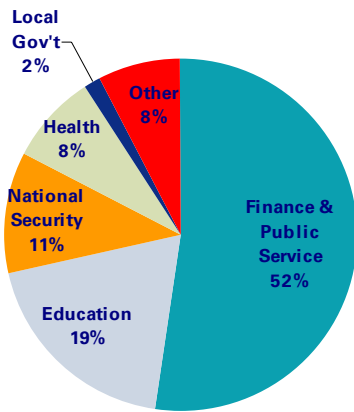
The Estimates of Expenditure are strikingly similar to those of recent years as it is dominated by debt servicing and key social services (security, health and education).

With limited discretionary spend, there is no plan for an economic stimulus package. The Government, having recognised the lack of sustainability of the current debt levels, has decided to initiate fiscal austerity measures.

Allocation of Recurrent Expenditure



2009/10 Recurrent Expenditure



## Recurrent Expenditure

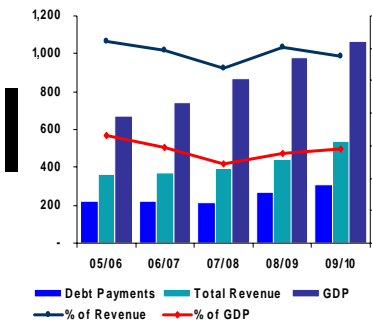
The major areas of recurrent expenditure are:

Interest payments on public debt	J\$159B - 15% over inflation adjusted 2008/09 revised estimates;
Education	J\$68B - 1% over inflation adjusted 2008/09 revised estimates;
Security	J\$40B - 3% over inflation adjusted 2008/09 revised estimates;
Health	J\$29B - 9% under inflation adjusted 2008/09 revised estimates; and
Local Government	J\$6B - 23% under inflation adjusted 2008/09 revised estimates.

The 2009/10 net recurrent expenditure budget reflects an increase of approximately 15.2% over the expected net recurrent expenditure for 2008/9. With the fiscal year-to-date inflation standing at 11.6%, as at February 2009, this is an inflation adjusted increase of approximately 3.23%.

Interest payments will account for 45% of the recurrent budget. The increase in interest payment has resulted in a reduction, in real terms, of the amount allocated to Health and Local Government.

Debt Service Costs

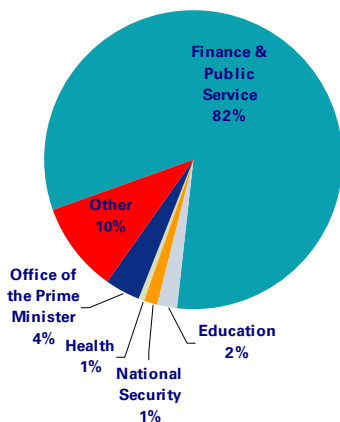


The reduction, in real terms, in the amounts allocated to the Health Ministry is particularly alarming in light of the increase in patient load at the public health facilities due to the Government's abolition of user fees. The continuation of the current patient load coupled with the reduced real term funding is likely to lead to a further erosion of the quality of service offered at these health facilities.

The recurrent expenditure is predicated on the assumption that the trade unions will accept the Prime Minister's proposed wage freeze, as there is little provision for increases in compensation of civil servants. If the trade unions refuse to accept the proposed wage freeze, there may be disruptions in Government services. The trade unions will have to assess the likelihood of increases in unemployment if the Government follows through on the threat to cut public sector jobs to keep the wage bill at the current levels.

A 3% inflation adjusted increase in the recurrent amounts allocated to security seems inadequate especially in light of the fact that the country's crime rate is a significant economic growth inhibitor.

2009/10 Capital Expenditure



## Capital Expenditure

The capital budget is estimated at J\$191.4B the major areas of which are:

Finance	J\$157B;
Office of the Prime Minister	J\$8B;
Security	J\$2B; and
Education	J\$4B.

The capital expenditure budgeted for the 2009/10 fiscal year represents a decrease of about 3.6% over the expected capital expenditure for 2008/9. However, when the numbers are adjusted to account for the fiscal year-to-date inflation, the budgeted amount represents a decrease of 13.6% in real terms when compared to the previous year.

The Ministry of Finance and the Public Service's budgeted capital expenditure of J\$157B includes J\$150B to fund the repayment of debt falling due within this fiscal year.

The planned capital expenditure is significantly lower than the expenditure required for infrastructure investment. Investment in key infrastructure such as renewable energy, roads, water resources, schools, waste treatment etc. is a catalyst for long-term economic growth. Under-investment in infrastructure therefore, continues to be a significant risk to long term economic development. Investment in renewable energy could play a significant role in reducing our dependence on imported fossil fuel which could, ultimately, reduce our balance of payments deficit and the demand for foreign currency to pay for these imports. Investments in renewable energy also have the potential to increase foreign currency inflows from the possible sale of carbon credits.

The Government should expand the use of alternative funding for capital improvements such as public/private partnerships or private finance initiatives which would reduce the debt impact on the already strained public purse.

***We must emphasize that the information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.***

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