INCENTIVES IN JAMAICA
Frequently Asked Questions

Preamble

The Government of Jamaica has embarked on a comprehensive tax reform process that has resulted in a simplified and more streamlined system of granting fiscal incentives starting in 2014. One significant and new feature of this reform is the establishment an attractive suite of legislation, known collectively as the Omnibus Incentives. This new regime is designed to create a transparent and automatic fiscal incentive framework, where eligibility is not based on sector alignment but on rather on productive activity. Developed on a more streamlined administrative system, the Omnibus Incentives legislation creates a framework through which companies operating in Jamaica benefit from performance-based fiscal primarily designed to reduce the cost of importation and the level of corporate income tax.

Altogether, Jamaica now boasts a modern and responsive legislative and administrative fiscal incentive system that has created a business environment that is built on greater efficiencies, effectiveness and productivity.

1. **What is the Omnibus Incentives Legislation?**

The Omnibus Incentives Legislation refers to the slate of four new pieces of legislation that provide non-sectoral fiscal incentives aimed at increasing business competitiveness within the Jamaican economy. This new framework will replace the long-standing or "legacy" incentives, as well as, remove the necessity for discretionary waivers, thus increasing transparency and fairness in the process of granting incentives.

Specifically, the Omnibus Incentives Legislation will provide fiscal incentives via:

- Reduced customs duty and additional stamp duty rates
- Reduced corporate income tax rates

The Omnibus Incentives Legislation forms a major component of the country's overall tax reform process.

2. **What are the Legacy Incentives?**

The Legacy Incentives refer to all legislated incentives that existed prior to January 1, 2014 that have been repealed. Specifically, these incentives are:

- The Export Industry (Encouragement) Act
- The Hotels (Incentives) Act
- The Resort Cottages (Incentives) Act
- The International Finance Companies (Tax Relief) Act
- The Petroleum Refining Industry (Encouragement) Act
- The Shipping (Incentives) Act

- The Cement Industry (Encouragement) Act
- The Motion Picture Industry (Encouragement) Act
- The Income Tax Act (Approved Farmer Rules)
- The Industrial Incentives Act
- The Industrial Incentives (Factory Construction) Act

These pieces of legislation were repealed as of January 1, 2014 and companies will no longer be able to benefit from the incentives.

3. Will companies currently benefitting from Legacy Incentives continue to enjoy the fiscal benefits after January 1, 2014?

Yes, companies benefitting from fiscal incentives under any one of the legacy incentives prior to January 1, 2014 may continue to do so after January 1, 2014. These companies will access the fiscal incentives by choosing to continue their benefits in any of two (2) ways, namely:

- Operating under the Legacy Incentive until the benefits expire in keeping with the scheduled end date
- Prior to the expiration of the Legacy Incentive, they may opt to 'switch' to operating under the Omnibus Incentive Legislation

Alternately, companies may choose to operate under the Omnibus Incentive Legislation as of January 1, 2014 (that is, not have their fiscal benefits 'grandfathered').

Companies will not be permitted to simultaneously claim fiscal benefits under both the Legacy Incentives and the Omnibus Incentives regime.

4. Can I access any fiscal incentives outside of the Omnibus Incentives Legislation?

Yes, the Government of Jamaica has kept five (5) following legislated incentives post January 1, 2014 given their significance to continued economic growth and development:

- The Jamaica Export Free Zones Act
  Companies designated with the Free Zone status are permitted to import items free of customs duty, value-added tax (called the General Consumption Tax – GCT) and other port related taxes and fees for an indefinite period. Profits earned are also free from income tax for an indefinite period. Eligibility is dependent primarily on the exportation of 85% of the goods and services produced within the Free Zone. This Act is slated to be repealed in 2015 at which time a new fiscal incentive arrangement will be put in place.

- The Urban Renewal Act
  Companies that undertake development within the designated Special Development Areas benefit from Urban Renewal Bonds, a 33.3% investment tax credit, tax free rental income and the exemption from transfer tax and stamp duties on the 'improved' property. This Act is slated to expire in 2015.

- The Income Tax Act (Junior Stock Exchange) – *with some revisions*
  Under the Omnibus Incentives legislation companies will not be required to pay income tax in the first five (5) years. A company listing after January 1, 2017 will be ineligible for this incentive.

- Bauxite and Alumina Industries (Encouragement) Act
  Recognized Bauxite & Alumina Producers are permitted to import all productive inputs free of import duties, the value-added tax (called the General Consumption Tax – GCT) and other port related taxes and fees.

5. What are the benefits under the Omnibus Incentives Legislation?

The new fiscal incentives framework provides for varying levels of relief in respect of customs duties, additional stamp duties and corporate income tax. These benefits are granted via the following four (4) specific Acts:

- ***The Fiscal Incentives Act - NEW***

Targeted at small and medium size businesses, provides for the reduction of the effective corporate income tax rate by applying:

- An Employment Tax Credit (ETC) at a maximum value of 30%
- A Capital Allowance applicable to a broadened definition of industrial buildings

- ***The Income Tax Relief (Large-Scale Projects and Pioneer Industries) Act – NEW***

Targeted at large-scale projects and/or pioneering projects, this piece of legislation provides for an improved and more attractive rate for the Employers' Tax Credit (ETC). Projects to be designated either as large-scale or pioneer will be based on the decision of Parliament having been informed by an Economic Impact Assessment.

- Large Scale projects will be identified as such based on the value of the capital expenditure, employment created and business linkages secured.

- Pioneer Industries projects are identified as those employing new, cutting edge and innovative methodologies and technologies. Such projects need not be large in scale.

- ***A Customs Tariff (Revision) Resolution – AMENDED***

Targeted at the productive sectors, this Act provides for the duty free importation of capital equipment and raw material. Special categories will be created for persons in the manufacturing, tourism and Creative industries to benefit from a duty rate of 0% for industry-related consumer goods.

- ***A Stamp Duty Act – AMENDED***

Targeted at the manufacturing sector, this piece of legislation provides stamp duty exemption on raw materials and non-consumer goods.

6. What are classified as consumer items or consumables?

Consumer items or consumables are goods that have been produced for direct consumption by the consumer. Non-consumer items, however, are those that are not suitable to be consumed by final consumers, and so describe equipment, raw materials and intermediate goods.

7. What is the Employment Tax Credit (ETC)?

The Employment Tax Credit (ETC) provides **unregulated companies and self-employed companies**, a tax credit amounting to a maximum of 30% of the accumulated employers' portion of the statutory deductions for both new and existing employees. The ETC is calculated within the year that the company's tax liability is assessed and is specific to the statutory deductions had been paid on time and in full, on a monthly basis.

Regulated companies, as well as companies that are either benefiting under one of the Legacy Incentives or under one of the other retained legislated incentives are not eligible for the ETC.

Where the full 30% ETC is applied, the company's effective corporate income tax rate will amount to 17.5%, as opposed to the default headline tax rate of 25%.

The eligible payroll statutory contributions are:

- Education Tax
- National Housing Trust (NHT) Contributions
- National Insurance Scheme (NIS) Contributions
- Human Employment And Resource Training (HEART) Contributions

<u>Pay-As-You-Earn (PAYE) income tax is not eligible for credit.</u>

The benefit of ETC cannot be applied to non-trading income, e.g. dividends, nor is it refundable and it cannot be carried forward (or back).

Companies that operate under the grandfathered Legacy Incentives or any of the four (4) incentives legislation that were not repealed are not eligible for the ETC.

Where a company applies the ETC on ineligible income the **ETC Claw Back Mechanism** will be employed. Any claw back of ETC will not exceed the aggregate ETC claimed by the company.

8. What is the Capital Allowance?

The application of the capital allowance reduces the proportion of company's income against which the corporate income tax will be charged. The Omnibus Incentives regime provides for an initial 20% allowance on capital expenditure related to construction, alteration and renovation of industrial buildings. Expenditure related to the purchase of an industrial building will not qualify for the initial allowance.

Assets purchased on or after January 1, 2014 are written off in accordance with the new capital allowance regime.

Specifically, under the Fiscal Incentives Act, the specific advantages of the revised capital allowance regime include:

- Standardized write-off rates on a straight-line basis
- Increased write-off rates of non-industrial buildings from 2.5% on the reducing balance to 4% on a straight-line calculation
- Increased the cap for private motor vehicles from J$3,200 to the Jamaican dollar equivalent of US$35,000. Second-hand vehicles do not qualify.
- Significantly improved list of qualifying intellectual property rights, including patents, trademarks, copyright, industrial design, internet domain name or publishing title

In addition, the definition of industrial buildings is significantly expanded to include:

- building or structure used directly in the production of primary products;

- hotel licensed by Jamaica Tourist Board (JTB);
- hospital and certain other healthcare facilities (as defined in the Act);
- multi-storey car park;
- building located in an Export Free Zone area designated as such by the Jamaica Export Free Zones Act
- building or structure constructed pursuant to a public-private partnership arrangements

9. How do I access the incentives under the Omnibus Incentive Legislation?

No application forms are required in order to access any of the myriad benefits under the Omnibus Incentives legislation. The fiscal incentives will be accessed at the point at which the companies submit their annual returns. Only companies that are fully tax compliant, i.e. taxes are paid in full and on time, can access benefits.

10. What is the Productive Inputs Relief?

The Productive Inputs Relief (PIR) system provides for the duty-free importation of the following items where they are for productive use:

- Raw materials, intermediate goods, consumables or packaging materials and equipment (including parts) for the manufacturers
- Machinery & equipment
- A set list of goods for hotels & resort cottages
- A set list of goods for tourism attractions
- A set list of goods for the healthcare sector
- Tools of Trade for the Creative Industries, specifically the:
    - Film Industry
    - Music Industry

11. What is a regulated company?

A regulated company is one which reports to and whose operations are regulated by the following bodies:

- Bank of Jamaica (BOJ)
- Financial Services Commission (FSC)
- Office of Utilities Regulator (OUR)
- Ministry of Finance & the Public Bodies

The corporate income tax rate for regulated companies is 33 1/3%, such companies are not eligible for the Employment Tax Credit (ETC). Regulated companies take advantage of the revised Capital Allowance regime.

Therefore, **an unregulated company** is one which is not regulated by any such body and is subject to a lower corporate income tax rate of 25%. This tax rate can be made effectively lower with the application of the Employment Tax Credit (ETC), which would reduce it to as low as 17.5%.

12. What is the Environmental Levy and how is it applied?

The environmental levy is paid on all imported goods into the country, as well as on the sale of all locally manufactured goods. The levy charged is 0.5%.

By virtue of the Provisional Collection of Tax (Environmental Protection Levy) Order, 2015, the levy is charged in two (2) instances:

1. On goods imported. The levy is applied to the costs, insurance and freight (c.i.f.) value of the goods.
2. On the sale of locally manufactured goods. The levy is only charged on 75% of the selling price (before any GCT or Special Consumption Tax (SCT) is applied.

Manufacturers can claim the levy as a credit, where the goods imported will be used in their production process. The levy paid on the importation of equipment will not be credited.

Greater details on how to apply and make a claim for the levy on locally manufactured goods can be found here.

13. What are the criteria used to determine a 'manufacturer'?

As of January 1, 2014, goods will not be regarded as having been 'manufactured' if the process of making the item relied almost exclusively on any of the following processes:

i. dividing (including cutting), purifying, drying, mixing, sorting, packaging, branding, testing or applying any other similar process to a product, produce or material that is acquired in bulk so as to prepare that product, produce or material for sale or distribution, or any combination of such processes;
ii. applying methods of preservation, maturation or other similar treatment to any foodstuffs or any combination of such processes;
iii. cooking, baking or otherwise preparing food or drink for human consumption which is intended to be consumed, at or about the time it is prepared, whether or not in the building or structure in which it is prepared or whether or not in the building to which it is delivered after being prepared,
iv. improving or altering any articles or materials without imposing on them a change in their character, or
v. repairing, refurbishing, reconditioning, restoring or other similar processing of any articles or materials, or any combination of such processes.

Goods that had required, to some level, the above listed processes but had also benefited from other methods of production can benefit from the definition of 'manufactured' and as such as eligible for duty-free importation under the Productive Inputs Relief (PIR) system.

14. How do Hotels benefit under the Omnibus Incentives framework?

Jamaica Tourist Board (JTB) licensed hotels, regardless of their size – ranging from ten (10) rooms to over three hundred and fifty (350), will benefit from the following incentives:

- ✓ ***Employment Tax Credit (ETC)*** and thus face a corporate income tax as low as 17.5%
- ✓ ***Reduced GCT rate*** of 10% will be paid by hotels that have chosen to operate under the Omnibus Incentives framework. Where hotels chose to remain under the Hotel Incentives Act (HIA) they will be charged the standard GCT rate of 16.5%.
- ✓ ***Capital Allowances*** that cover, among other things, a broadened definition of 'industrial buildings' to include hotels
- ✓ ***Duty-free Importation of Equipment and Machinery***, as well as revised tariff rates ranging from 0% to no higher than 20% (with some exceptions). Relief from income tax to certain overseas lenders who fund licensed hotel and resort cottage operations is also provided.

- ✓ ***Productive Input Relief (PIR)*** that provides certain hotel industry-related items that would have attracted customs duties are not required to pay the customs duty and the Additional Stamp Duty (ASD) when purchased for productive use.

Hotel projects can also benefit under the Income Tax Relief (Mega Projects and Pioneer Industries) Act, where they qualify, for an attractive rate under the Employment Tax Credit (ETC) system.

15. How do Tourism Attractions benefit under the Omnibus Incentives framework?

Jamaica Tourist Board (JTB) licensed Attractions benefit from the following incentives:

- ✓ ***Employment Tax Credit (ETC)*** and thus face a corporate income tax as low as 17.5%
- ✓ ***Capital Allowances*** that cover, among other things, a broadened definition of 'industrial buildings' to include hotels
- ✓ ***Duty-free Importation of Equipment and Machinery***, as well as revised tariff rates ranging from 0% to no higher than 20% (with some exceptions).
- ✓ ***Productive Input Relief (PIR)*** that provides certain tourism attraction-related items that would have attracted customs duties are not required to pay the customs duty and the Additional Stamp Duty (ASD) when purchased for productive use.

Tourism Attraction projects can also benefit under the Income Tax Relief (Mega Projects and Pioneer Industries) Act, where they qualify, for an attractive rate under the Employment Tax Credit (ETC) system.

16. How do medical and wellness tourism facilities benefit under the Omnibus Incentives framework?

Medical and Wellness tourism facilities can benefit from the following incentives:

- ✓ ***Employment Tax Credit (ETC)*** and thus face a corporate income tax as low as 17.5%
- ✓ ***Capital Allowances*** that cover, among other things, a broadened definition of 'industrial buildings'
- ✓ ***Duty-free Importation of Equipment and Machinery***, as well as revised tariff rates ranging from 0% to no higher than 20% (with some exceptions)
- ✓ ***Productive Input Relief (PIR)*** that provides certain healthcare related equipment that would have attracted customs duties are not required to pay the customs duty and the Additional Stamp Duty (ASD) when purchased for productive use

Medical & Wellness Tourism projects can also benefit under the Income Tax Relief (Mega Projects and Pioneer Industries) Act, where they qualify, for an attractive rate under the Employment Tax Credit (ETC) system.

17. Are there any benefits for the Business Process Outsourcing (BPO) industry benefit under the Omnibus Incentives?

The Business Process Outsourcing (BPO) industry generally accesses fiscal incentives under the Jamaica Export Free Zone Act – one for the four (4) legislated incentives that were not repealed by December 31, 2013. Companies designated with the Free Zone status will continue to benefit from the following incentives:

- ✓ ***Duty-free importation***
- ✓ ***GCT-free importation***

- ✓ N*o **requirement to pay the other port related taxes*** (e.g. Environmental Levy, Additional Stamp Duty, Standard Compliance Fee) for an indeterminate period. Free Zone beneficiaries are however, required to pay the Customs Administration Fee (CAF)
- ✓ ***Profits earned are also free from income tax*** for an indeterminate period.

Eligibility is dependent primarily on the exportation of 85% of the goods and services produced within the Free Zone.

Companies that have chosen to continue to operate under the Free Zone Act, i.e. chose not to operate under the Omnibus Incentives, are therefore not eligible for the Employment Tax Credit (ETC) or capital allowance regimes; nor are they allowed to access the benefits under the Productive Input Relief (PIR) system.

18. How can the manufacturing sector benefit under the Omnibus Incentives?

Manufacturing companies can benefit from the following incentives:

- ✓ ***Employment Tax Credit (ETC)*** and thus face a corporate income tax as low as 17.5%
- ✓ ***Capital Allowances*** that cover, among other things, a broadened definition of 'industrial buildings'
- ✓ ***Duty-free Importation of Equipment and Machinery***, as well as revised tariff rates ranging from 0% to no higher than 20% (with some exceptions).
- ✓ ***Productive Input Relief (PIR)*** that provides certain items relevant to the manufacturing sector that would have attracted customs duties are not required to pay the customs duty and the Additional Stamp Duty (ASD) when purchased for productive use.

Manufacturing projects can also benefit under the Income Tax Relief (Large-Scale Projects and Pioneer Industries) Act, where they qualify, for an attractive rate under the Employment Tax Credit (ETC) system.

19. How do agricultural projects benefit under the Omnibus Incentives?

Agricultural project can benefit from the following incentives:

- ✓ ***Employment Tax Credit (ETC)*** and thus face a corporate income tax as low as 17.5%
- ✓ ***Capital Allowances*** that cover, among other things, a broadened definition of 'industrial buildings'
- ✓ ***Duty-free Importation of Equipment and Machinery***, as well as revised tariff rates ranging from 0% to no higher than 20% (with some exceptions).
- ✓ ***Productive Input Relief (PIR)*** that provides certain agricultural-related equipment and machinery used in the production of primary products or in quality control and testing of agricultural products that would have attracted customs duties are not required to pay the customs duty and the Additional Stamp Duty (ASD) when purchased for productive use.
- ✓ ***Concession on specific vehicles***, where farmers registered with their local Rural Agriculture Development Authority (RADA), are able to access a concession on specific vehicles for farming purposes once in every five (5) years. Eligible vehicles include Toyota Hilux, Nissan Frontier, Ford Trucks other than F1 50s, and other pickups. General information on this concession is available here.

Agricultural projects can also benefit under the Income Tax Relief (Large-Scale Projects and Pioneer Industries) Act, where they qualify, for an attractive rate under the Employment Tax Credit (ETC) system.

20. How do mining projects benefit under the Omnibus Incentives?

Mining projects can benefit from the following incentives:

- ✓ ***Employment Tax Credit (ETC)*** and thus face a corporate income tax as low as 17.5%
- ✓ ***Capital Allowances*** that cover, among other things, a broadened definition of 'industrial buildings'
- ✓ ***Duty-free Importation of Equipment and Machinery***, as well as revised tariff rates ranging from 0% to no higher than 20% (with some exceptions).
- ✓ ***Productive Input Relief (PIR)*** that provides certain healthcare related equipment that would have attracted customs duties are not required to pay the customs duty and the Additional Stamp Duty (ASD) when purchased for productive use.

Mining projects can also benefit under the Income Tax Relief (Large-Scale Projects and Pioneer Industries) Act, where they qualify, for an attractive rate under the Employment Tax Credit (ETC) system.

21. Is there any special consideration for the Creative Industries?

The Creative Industries can benefit from the following incentives:

- ✓ ***Employment Tax Credit (ETC)*** and thus face a corporate income tax as low as 17.5%
- ✓ ***Capital Allowances*** that cover, among other things, a broadened definition of 'industrial buildings'
- ✓ ***Duty-free Importation of Equipment and Machinery***, as well as revised tariff rates ranging from 0% to no higher than 20% (with some exceptions)
- ✓ ***Productive Input Relief (PIR)*** that provides that the musicians and film-makers will be able to import industry-related items where they are registered under the **Creative Industries Registry**, which is managed by the Ministry of Tourism and Entertainment. One registered the companies will be required to pay the the customs duty and the Additional Stamp Duty (ASD) when purchased for productive use
- ✓ ***Film Industry Bond Waiver*** on the temporary importation of their film equipment

22. What role does JAMPRO play in the incentives process?

Given that no prior approval is required to access the incentives under the Omnibus Incentive Legislation, the primary role of JAMPRO will be to facilitate the approval processes necessary for the implementation of a company's investment project.

Where a company is operating under the incentives that is not included under the Omnibus Incentives Legislation (Free Zone, Urban Renewal, Jamaica Stock Exchange, Bauxite & Alumina) applications to access these benefits are still required.

23. Will waivers be given for the Consumption Tax (GCT) or the Customs Administration Fee (CAF)?

No. There will no longer be any concession of GCT or CAF. The Customs Administration Fee (CAF) is a schedule of fees related to the administrative costs of processing the goods at the port and as such there is no consideration for its waiver. Companies are required to pay the General Consumption Tax (GCT) at the port and thereafter file for an input tax credit at the Tax Administration of Jamaica (TAJ) within thirty (30) days.

24. How will the corporate income tax rates be affected?

The Corporate Income Tax (CIT) rate (for unregulated companies and self-employed persons) will be at a lower headline rate of 25% across the board. Eligible companies can also benefit from a further reduction in the effective corporate income tax rate to as low as 17.5%, where the full Employer Tax Credit (ETC) is applied. The new headline rate will be applied to all sectors with the exception of the current Junior Stock Exchange regime (subject to modification), as well as, the Bauxite Mining industry and Free Zone regimes (subject to modification).

**The Junior Market tax relief will be maintained through 2016

25. The new legislation will impose caps on utilisation of tax losses carried forward, what does this mean?

It is proposed that any claim for deduction of tax losses carried forward in any year of assessment will be capped at 50% of chargeable income for that year (before deduction of tax losses carried forward)

This cap will not apply to:

- a company which has been incorporated under the Companies Act (or in the case of an overseas company, which has registered;
- a local branch under the Companies Act) within five years of assessment next following the beginning of the year of assessment in respect of which the taxpayer commenced a trade, profession or business, as determined by the Commissioner General;
- a taxpayer (whether individual or company) whose gross turnover is below the threshold required for GCT registration (currently J$3,000,000 per annum).

Adapted in part from documents obtained from the Ministry of Finance and Planning and Tax Administration Jamaica