

**A BILL
ENTITLED**

AN ACT to amend the *Income Tax Act* to include new fiscal incentives that are of general application and enhance existing fiscal incentives; to repeal certain enactments that grant fiscal incentives to specific sectors of the economy; and for connected matters.

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:-

**Short title
and com-
mencement.**

1. This Act may be cited as the Fiscal Incentives (Miscellaneous Provisions) Act, 2013, and shall come into operation on the 1st day of January, 2014.

**Interpre-
tation.**

2. In this Act, unless the context otherwise requires –
- “annual allowance” means an annual allowance made under the
First Schedule to the *Income Tax Act*;
- “Commissioner General” means the Commissioner General
appointed under section 4 of the *Revenue Administration
Act*;
- “continuing beneficiary” means a person who, immediately
before the coming into operation of this Act, was entitled to
fiscal incentives under a repealed enactment for a period of
time specified pursuant to the enactment;
- “fiscal incentive” means any exemption or relief, in respect of
any tax, duty, fee, levy, fine or other impost, that is granted
under any enactment;
- “initial allowance” means an initial allowance made under the

First Schedule to the *Income Tax Act*;

“remaining balance”, in relation to a capital expenditure in respect of an asset, means the original cost of the asset, less any annual allowance and any initial allowance, as the case may be, made in respect of that capital expenditure;

“repealed enactment” means an enactment that is repealed by section 4;

“revenue law” means any law that imposes any tax, duty, fee, levy, fine or other impost;

“termination date”, in relation to a person’s entitlement to fiscal incentives under a repealed enactment, means the earlier of –

- (a) the end of any period of time specified pursuant to the enactment during which a person is entitled to the fiscal incentives; and
- (b) the date when the person’s entitlement to the fiscal incentives is terminated by virtue of an election made under section 5;

“year of assessment” means the year of assessment within the meaning of section 2(1) of the *Income Tax Act*.

Amendment of Acts. Schedule.

3. The provisions of the enactments specified in the first column of the Schedule are amended in the manner specified respectively in relation to them in the second column of the Schedule.

Repeal of enactments.

4. The following enactments are repealed -
- (a) the *Cement Industry (Encouragement and Control) Act*;
 - (b) the *Export Industry Encouragement Act*;

- (c) the *Foreign Sales Corporation Act*;
- (d) the *Hotels (Incentives) Act*;
- (e) the *Industrial Incentives Act*;
- (f) the *Industrial Incentives (Factory Construction) Act*;
- (g) the *International Finance Companies (Income Tax) Relief Act*;
- (h) the *Motion Picture Industry (Encouragement) Act*;
- (i) the *Petroleum Refining Industry (Encouragement) Act*;
- (j) the *Resort Cottages (Incentives) Act*; and
- (k) the *Shipping (Incentives) Act*.

Saving in respect of repealed enactments.

5. – (1) Notwithstanding the repeal of enactments under section 4, and subject to the provisions of this section, a continuing beneficiary is to be regarded as continuing to be entitled to fiscal incentives under a repealed enactment (in this section referred to as the “relevant repealed enactment”).

(2) Subject to section 8, the following applies in relation to a continuing beneficiary referred to in subsection (1) –

- (a) the relevant repealed enactment (with the exception of any provision relating to initial or annual allowances) shall be regarded as continuing to apply until the termination date in respect of the entitlement of the continuing beneficiary to fiscal incentives under the relevant repealed enactment; and
- (b) the amendments to revenue laws made by section 3 shall not apply in respect of the continuing beneficiary until that termination date.

(3) A continuing beneficiary may make an election to terminate the entitlement of the continuing beneficiary to fiscal incentives under the relevant repealed enactment.

(4) An election made under subsection (3) –

- (a) shall be notified in writing to the Commissioner General;
and
- (b) may only be made in respect of all of the fiscal incentives that the person who makes the election is entitled to under the relevant repealed enactment.

(5) An election made under subsection (3) shall take effect -

- (a) for the purposes of the *Income Tax Act*, from the first day of the year of assessment in which the election is made;
- (b) for the purposes of the *General Consumption Tax Act*, from the first day of the taxable period next following the date when the election is made; and
- (c) for the purpose of other revenue laws, from the date when the election is made.

(6) Where a continuing beneficiary has an entitlement to fiscal incentives under the *Hotels (Incentives) Act* or the *Resort Cottages (Incentives) Act* and has not, before the 1st day of July, 2014, made an election under subsection (3) to terminate that entitlement, then, as from the 1st day of July, 2014 until the termination date in respect of that entitlement –

- (a) the 10% rate of tax referred to in Part V of the First Schedule to the *General Consumption Tax Act* shall not apply in respect of the continuing beneficiary; and

- (b) the continuing beneficiary shall be liable to pay general consumption tax at the rate specified in section 4(1)(a) of the *General Consumption Tax Act*.

Saving in respect of sections 5(6) and 36D of Income Tax Act.

6. Notwithstanding the repeal of sections 5(6) and 36D of the *Income Tax Act*, where a person has been designated as an approved farmer by an order made under section 36D(1) of that Act before the 1st day of January, 2014, sections 5(6) and 36D of that Act shall continue to apply in relation to that person until the end of the period for which the designation has been made, or until revocation of the order, whichever occurs first.

Transitional provisions in respect of capital allowances, generally

7. Subject to section 8, where a person was entitled, under the provisions of the First Schedule to the *Income Tax Act* in effect immediately before the 1st day of January, 2014, to annual allowances in respect of capital expenditure that was incurred before that date, those provisions shall continue to apply in respect of the remaining balance of that capital expenditure.

Transitional provisions in respect of capital allowances – repealed enactments.

8. - (1) Where, immediately before the 1st day of January, 2014, by virtue of a repealed enactment no initial allowance or annual allowance was made to a continuing beneficiary in respect of capital expenditure incurred by the continuing beneficiary before the 1st day of January, 2014, the continuing beneficiary shall, where permitted, be entitled to an initial allowance and an annual allowance, in accordance with subsection (2), in respect of the remaining balance of that capital expenditure if, before the 1st day of July, 2014, the continuing beneficiary makes an election under section 5 to terminate the entitlement to fiscal incentives under the repealed

enactment.

(2) Capital expenditure referred to in subsection (1) (other than capital expenditure incurred on the purchase, alteration or improvement of a private motor vehicle) shall be deemed, for the purposes of the First Schedule to the *Income Tax Act* as amended by this Act, to be capital expenditure incurred on the 1st day of January, 2014, and –

- (a) subject to subsections (3) and (4), an initial allowance shall, where permitted, be made in accordance with the First Schedule to the *Income Tax Act*, as amended by this Act, in respect of the amount of that capital expenditure; and
- (b) annual allowances shall, where permitted, be made in accordance with the First Schedule to the *Income Tax Act*, as amended by this Act, in respect of the amount of that capital expenditure.

(3) Subsection 2(a) shall not apply where, had an election referred to in subsection (1) not been made, the relevant concession period would have ended before the 1st day of January, 2019.

(4) For greater certainty, no initial allowance shall be made under subsection (2)(a) in respect of capital expenditure for which an initial allowance has previously been made.

(5) In the case of a continuing beneficiary referred to in subsection (1) who does not make an election referred to in that subsection –

- (a) annual allowances shall, where permitted, be made in accordance with the First Schedule to the *Income Tax Act* in

effect immediately before January 1, 2014 in respect of capital expenditure that was incurred before the 1st day of January, 2014; and

- (b) an initial allowance and annual allowances shall, where permitted, be made in accordance with the First Schedule to the *Income Tax Act*, as amended by this Act, in respect of capital expenditure incurred on or after the 1st day of January, 2014.

Transitional provisions – annual allowance for second-hand private vehicles.

9. Paragraphs 6(), 6(5) and 6(8) of PART III of the First Schedule to the *Income Tax Act*, as those provisions existed before the 1st day of January, 2014, shall continue to apply in respect of capital expenditure on the purchase of a second-hand private vehicle on or after the 1st day of January, 2014 from a connected person.

[subsection (2) deleted]

Transitional provision - large unregulated companies

10. Notwithstanding the amendment of section 30 of the *Income Tax Act*, where a large unregulated company (within the meaning of section 30(1A) of that Act as it existed before the 1st day of January, 2014) is permitted or required to compute its profits or gains by reference to a permitted accounting period (within the meaning of section 6(7) of that Act), the profits or gains of that company for the permitted accounting period ending in 2014 shall be calculated as a fraction of the company's income, profits or gains for that permitted accounting period –

- (a) the numerator of which is the number of months from January 1, 2014 to the end of the permitted accounting period; and

- (b) the denominator of which is the number of months of the permitted accounting period.

SCHEDULE (Section 2)

Amendment of Enactments

PROVISION	AMENDMENT
General Consumption Tax Act	
First Schedule	Delete from Group 15 of Part II the items relating to the following enactments and renumber the remaining items accordingly – <ul style="list-style-type: none"> (a) “the <i>Export Industry Encouragement Act</i>”; (b) “the <i>Hotels (Incentives) Act</i>”; (c) “the <i>Industrial Incentives Act</i>”; (d) “the <i>Industrial Incentives (Factory Construction) Act</i>”; (e) “the <i>Motion Picture Industry (Encouragement) Act</i>”; (f) “the <i>Petroleum Refining Industry (Encouragement) Act</i>”; (g) “the <i>Resort Cottages (Incentives) Act</i>”.
Income Tax Act	
Section 2(1)	1. Insert in the appropriate alphabetical sequence – <ul style="list-style-type: none"> “approved tourism undertaking” means an undertaking in respect of which the Minister – <ul style="list-style-type: none"> (a) is satisfied that the undertaking is, or will be, a hotel or resort cottage within the meaning of section 2 of the Tourist Board Act; and (b) declares by order to be an approved tourism undertaking for the purposes of paragraph 12 (s);

“regulated company” means a company that is regulated by any of the following –

- (a) the Financial Services Commission;
- (b) the Office of Utilities Regulation;
- (c) the Bank of Jamaica;
- (d) the Minister with responsibility for finance;

“unregulated company” means a company that is not a regulated company;

“utility service” means a service, the provision of which is regulated under the *Office of Utilities Regulation Act*.”.

2. Delete the definition of “approved public utility” and substitute the following –

“approved public utility” means any undertaking which the Minister is satisfied –

- (a) renders, or will render, utility services to the community such as to constitute the operation of a public utility; or
- (b) provides utility services to an undertaking that renders such services to the community,

and which the Minister declares by order to be an approved public utility for the purposes of paragraph (s) of section 12;”.

Section 5 Delete subsection (6).

Section 12 In paragraph (s), delete subparagraph (iii) and substitute the following –

- “(iii) investments in an approved public utility, or
- (iv) investments in an approved tourism undertaking, or

- (v) investments made before January 1, 2014 in an approved hotel enterprise or an approved extension of a hotel within the meaning of the *Hotels (Incentives) Act* or a recognized resort cottage or a recognized extension under the *Resort Cottages (Incentives) Act*.”.

Section 13

1. Delete clause (B) of the proviso to subsection (1)(h) and substitute the following –

“(B) the amount of any loss sustained in a previous year of assessment and not previously allowed (hereinafter referred to as a “prior year loss”) that may be deducted under this paragraph by a taxpayer in any year of assessment shall not exceed 50% of the aggregate amount of income of the taxpayer from all sources remaining after allowing the appropriate deductions and exemptions under this Act (other than prior year losses), and

- (C) the limit of 50% in clause (B) shall not apply –

- (i) for the first five years of assessment next following the year of assessment in which the taxpayer commenced a trade, profession or business, as determined by the Commissioner General; or

- (ii) where the taxpayer’s gross revenue from all sources for the relevant year of assessment is less than the amount referred to in section 27(1)(b)(i) of the *General Consumption Tax Act*.”.

2. In subsection (1)(n), insert the following proviso immediately after the second proviso –

“ Provided that no deduction may be allowed under this paragraph with regard to capital expenditure on a building or structure that is incurred after the 31st day of December, 2013.”.

Section 14A Delete the section.

Section 15 Insert the following next after subsection (3) –

“ (4) Notwithstanding the provisions of subsection (2), a person who operates an approved farming enterprise may set off any loss incurred in connection with a prescribed agricultural activity against profits or gains arising from any other trade, business, profession, employment or vocation carried on by that person.

(5) In subsection (4) –

“approved farming enterprise” means an enterprise that has been approved by the Minister for the purposes of carrying out prescribed agricultural activities;

“prescribed agricultural activity” means such activity as the Minister may by order prescribe.”.

Section 30 In subsection (1) –

(a) delete paragraph (b) and substitute the following –

“ (b) upon the chargeable income of the categories of the bodies corporate subject to income tax specified in sub-paragraphs (i) and (ii), other than building societies or life assurance companies, tax at the rates specified in relation to each category as follows –

(i) with effect from the 1st January, 2014, 33 $\frac{1}{3}$ cents in every dollar of the income of a regulated company; and

(ii) with effect from the 1st January, 2014, 25 cents in every dollar of the income of an unregulated company.”;

(b) delete subsection (1A);

**New section
32A**

Insert next after section 32 the following

“Employment tax credit.

32A. – (1) In this section –

“assessment period” means the “year of assessment”, as defined in section 2(1) of the *Income Tax Act*, or the “permitted accounting period”, as defined in section 6(7) of that Act, whichever is applicable;

“specified payments” in relation to an eligible person means –

- (a) amounts required, under section 6 of the *Education Tax Act*, to be paid in respect of, or on behalf of, employees of the eligible person;
- (b) contributions payable under section 12 of the *Human Employment and Resource Training Act* in respect of emoluments paid to employees of the eligible person;
- (c) amounts required, under section 12 of the *National Housing Trust Act*, to be paid in respect of, or on behalf of, employees of the eligible person;

and

- (d) amounts required, under section 6 of the *National Insurance Act*, to be paid in respect of, or on behalf of, employees of the eligible person.

(2) A person other than a regulated company (in this section referred to as an “eligible person”) shall be entitled to claim credit (in this section referred to as “employment tax credit”), in accordance with the provisions of this section, against income tax payable by that person under this Act in any year of assessment.

(3) The amount of employment tax credit for any year of assessment shall be an amount equivalent to the total of specified payments by an eligible person that are made in respect of any month ending within the assessment period for that person.

(4) The amount of employment tax credit that may be claimed by an eligible person in respect of any year of assessment shall be limited to an amount that is 30% of any tax payable by the eligible person in respect of the income, profits or gains of the eligible person for the relevant assessment period arising from –

- (a) the carrying on of a trade, profession or vocation by the

eligible person; and

- (b) the rental by the eligible person of a hotel or resort cottage that is licensed as tourist accommodation under the *Tourist Board Act*.

(5) For the purposes of subsection (4), where the assessment period for an eligible person is a permitted accounting period, the income, profits or gains of that person, for the purposes of any claim for employment tax credit for the permitted accounting period ending in 2014 shall be calculated as a fraction of the eligible person's income, profits or gains for that permitted accounting period –

- (a) the numerator of which is the number of months from January 1, 2014 to the end of the permitted accounting period; and
- (b) the denominator of which is the number of months of the permitted accounting period.

(6) An eligible person who is connected to a regulated company, within the meaning of section 2(2), shall not be entitled to claim employment tax credit in a year of assessment if the eligible person in that year –

- (a) provides to persons resident in Jamaica services that would ordinarily be provided,

by that regulated company; or

- (b) provides services to that regulated company in support of the provision by the regulated company of its services, unless the Commissioner General is satisfied that the consideration for providing such services does not exceed the cost incurred by the eligible person in providing such services (including a reasonable sum for overheads).

(7) Any amount of employment tax credit that exceeds the limit set out in subsection (4) in a year of assessment shall not be credited against tax payable in any other year of assessment and shall not be subject to a refund under this Act.

(8) An eligible person shall only be entitled to employment tax credit in respect of specified payments for the months for which –

- (a) those payments were made by the date in the month when those payments were due to be made; and
- (b) the monthly returns relating to those payments were duly filed in accordance with this Act.

(9) An eligible person who is an individual carrying on a trade, profession or vocation, whether on the individual's own behalf or

jointly with other persons in a partnership, shall not be entitled to claim employment tax credit in any year of assessment in respect of which the individual has not duly accounted for and paid all amounts for which the individual is liable in that year of assessment under the *Education Tax Act*, the *National Housing Trust Act* or the *National Insurance Act* in the person's capacity as a self-employed person (as defined in those Acts).

(10) Where a body corporate subject to income tax that has claimed employment tax credit makes a distribution, within the meaning of section 34, that body corporate shall, in respect of employment tax credit previously claimed, be liable to repay an amount (hereinafter referred to as the "relevant amount") as income tax under this Act.

(11) For the purposes of subsection (10), the relevant amount, is –

- (a) 10% of the amount of the distribution; less
- (b) any tax payable by the recipient of the distribution in respect of the distribution;

Provided that if the tax payable in respect of the distribution exceeds 10% of the amount of the distribution, the relevant amount shall be nil;

And further provided that the aggregate of all amounts of tax payable under

subsection (10) shall not exceed the total amount of all employment tax credit that has been claimed by the body corporate.

(12) The relevant amount is payable within 14 days after the end of the month in which a distribution referred to in subsection (10) is made.

(13) A person (referred to in regulation 3 of the *Income Tax (Employments) Regulations* as the “principal employer”) who is deemed under regulation 3 of those regulations to be the employer of an employee for the purposes of those Regulations, shall be deemed to be the employer of that employee for the purposes of this section.

(14) The employees of a service company shall, solely for the purposes of this section, be deemed to be employees of the individual or individuals who own the service company, and the individual or individuals who own the service company shall be deemed to be –

- (a) the employer or employers, as the case may be, of those employees; and
- (b) the eligible person or persons entitled to claim employment tax credit in respect of the specified payments made by the service company in respect of, or on behalf of, those

employees.

(15) For the purposes of this subsection, “service company” means a company that –

- (a) is owned by an individual, or individuals, carrying on a trade, profession or vocation (whether on the individual’s own behalf or jointly with other individuals in a partnership); and
- (b) provides services to such individual or partnership where the Commissioner General is satisfied that the consideration for providing such services does not exceed the cost incurred by the service company in providing such services (including a reasonable sum for overheads).

Section 36 Delete from subsection (2) the words “33 $\frac{1}{3}$ *per centum* in the case of a person other than an individual, or 25 *per centum* in the case of an individual” wherever they appear and substitute, in each case, the words “33 $\frac{1}{3}$ % in the case of a person other than an individual or an unregulated company, or 25% in the case of an individual or an unregulated company”.

Section 36D Delete the section.

Section 38 1. In subsection (1) –

- (a) delete the words “33 $\frac{1}{3}$ *per centum* in the case of a distribution to a person other than an individual, or 25 *per centum* in the case of a distribution to an individual” and substitute the words “33 $\frac{1}{3}$ % in the case of a distribution to person other than an individual or an unregulated company, or 25% in the case of a distribution to an individual or to an unregulated company”;

and

- (b) in the proviso, delete the words “the distribution is made” and substitute the words “a dividend is paid”.

2. Insert the following next after subsection (3) –

“ (3A) Subsection (3) shall not apply unless all of the employment tax credit claimed under section 32A by the body corporate subject to income tax has been repaid pursuant to section 32A(10).”.

Section 39

Delete from subsection (1) the words “33 $\frac{1}{3}$ per centum if the unit holder is not an individual or at 25 per centum if the unit holder is an individual” and substitute the words “33 $\frac{1}{3}$ % if the unit holder is a person other than an individual or an unregulated company, or 25% if the unit holder is an individual or an unregulated company”.

Section 48A

Delete from subsection (1) the words “25 cents in the dollar if the investor is an individual, or 33 $\frac{1}{3}$ cents in the dollar if the investor is any other person” and substitute the words “25% if the investor is an individual or an unregulated company, or 33 $\frac{1}{3}$ % if the investor is a person other than an individual or an unregulated company”.

New Heading and Section 48B

Insert next after section 48A the following heading and section –

“ ***Junior Stock Market Companies***

The provisions of the Fifth Schedule shall have effect with regard to the granting of relief to companies listed on the Jamaica Stock Exchange Junior Market.”.

First Schedule

1. Renumber PART I as PART II.

Insertion of new PART I

2. Insert immediately before PART II, as renumbered, the following –

“ **PART 1. *Interpretation***

Definitions. 1. – (1) In this Schedule –

“basis period”, for any year of

assessment, means subject to sub-paragraph (2), the period on the profits or gains of which income tax for that year falls to be finally computed in respect of the trade in question;

“cost” means the net figure after deducting from the cost price any grants, subsidies or other payments received from third parties on account thereof;

“dock” includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers, not being a pier or jetty primarily used for recreation, and “dock undertaking” shall be construed accordingly;

“electricity undertaking” means an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy;

“mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth;

“owner” means the person who owns the property concerned or occupies it on terms whereby the full burden of the wear and tear falls upon that person;

“retail shop” includes any premises of a similar character where retail trade or business including repair work is carried on;

“undertaking” does not include an undertaking not carried on by way of trade;

“water undertaking” means an undertaking for the supply of water for public consumption;

“written down value” means the cost less any initial, annual or other allowance granted prior to the year of assessment.

(2) In the case of any trade –

- (a) where two basis periods overlap, the period common to both shall be deemed (for the purpose of the definition of “basis period”) to fall in the first basis period only;
- (b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then, unless the second-mentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to be part of the second basis period; and
- (c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis

period.

References to expenditure.

2. Except as otherwise provided in this Schedule, references in Parts II and III to expenditure incurred on the construction, alteration, purchase or improvement of any buildings and structures or machinery and plant do not include any expenditure incurred on the purchase of rights in or over any land.

References to capital expenditure and capital sums.

3. References in this Schedule to capital expenditure and capital sums –

(i) in relation to the person incurring the expenditure or paying the sums, do not include any expenditure or sum which is allowed to be deducted in computing, for the purposes of income tax, the profits or gains of a trade carried on by that person; and

(ii) in relation to the person receiving the amounts expended or the sums in question, do not include references to any amounts or sums which fall to be taken into account as receipts in computing the profits or gains of any trade carried on by that person, and do not include, in relation to any such person any expenditure or sum in the case of which deduction of tax falls or may fall to be made.

Subsidies, etc.

4. – (1) For the purposes of this Schedule, expenditure shall not be regarded as having been incurred

by any person in so far as it has been or is to be met directly or indirectly by the Crown or the Government of this Island or by any public or local authority whether in the Island or elsewhere, or by any person other than the first mentioned person.

(2) There shall be left out of account any insurance moneys or other compensation moneys payable in respect of any assets which have been demolished, destroyed or put out of use.

References to Commissioner.

5. References in this Schedule to the Commissioner shall be construed as references to the Commissioner General.”.

Amendment of renumbered PART II.

3. In PART II, as renumbered –

(a) delete the heading and substitute the following –

“PART II. *Buildings*” ;

(b) in paragraph 1(1), delete the word “purchase” and substitute the word “renovation”;

(c) delete paragraph 1A;

(d) in paragraph 2(1) –

(i) delete the words “on a building or structure for which he has obtained the initial allowance mentioned in paragraph 1” and substitute the words “on the purchase, construction, alteration or renovation of a building or structure”; and

(ii) delete all the words appearing after the word “calculated” and substitute the following –

“on such capital expenditure at the rate specified in the following Table –

“TABLE

Type of Construction of Building or Structure	Annual Allowance Rate
Primarily constructed of concrete, steel, brick, stone, cement or similar material	4%
Primarily constructed of other inorganic material such as galvanized iron, corrugated metal or similar material	10%
Primarily constructed of wood or other organic material	12.5%

- (d) in paragraph 3(1), insert the word “, renovation” next after the word “alteration”; and delete the words “while the building or structure is an industrial building or structure”;
- (e) in paragraph 3(4), insert the word “, renovation” next after the word “alteration”;
- (f) in paragraph 4(1), insert the word “, renovation” next after the word “alteration”;
- (g) delete from paragraph 4(3) the words “, by reason of the building or structure being at any time an industrial building or structure,”;

- (h) insert next after paragraph 4 the following –

**“Appli-
cation
of
Part.** 4A. This Part applies to industrial buildings or structures and to non-residential buildings.

**Defin-
ition of
“non-
residen-
-tial
build-
ing”.** 4B. In this Part, “non-residential building” means a building or structure which is not an industrial building or structure and which is used or occupied primarily for the purposes of a trade, business, profession or vocation and not primarily as a residence.”.

- (i) in paragraph 5 -

- (i) delete from sub-paragraph (1) the full stop appearing at the end of sub-subparagraph (g) and substitute the words “; or” and insert next after sub-subparagraph (g) the following –

“(h) a hotel or resort cottage within the meaning of section 2 of the *Tourist Board Act*; or

(i) a hospital or other healthcare facility primarily for the care of in-patients; or

(j) a multi-storey car park constructed exclusively for parking motor vehicles; or

(k) a building located in a Free Zone as defined in section 2 of the *Jamaica Export Free Zones Act*; or

(l) a building or structure that is used directly in the production of primary products (as defined in Part

III of the First Schedule); or

(m) subject to the approval of the Commissioner General, a building or structure constructed pursuant to an arrangement between a public authority and another person for the provision of public goods or services.”;

(ii) delete from sub-paragraph (4) the word “hotel” wherever it occurs;

(iii) delete sub-paragraphs (6), (7) and (8);

(h) delete paragraph 7;

Deletion of PART II Delete the existing Part II.

Amendment of PART III In Part III –

(a) renumber paragraph 1 as paragraph 1A and insert immediately before paragraph 1A as renumbered the following paragraph.

“Interpretation.

1. In this Part –

“manufacture of goods” means –

(a) the production of goods in Jamaica by means of a process of manufacture, but does not include the production of goods which result from a process that consists primarily of any one or more of the following –

(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 or
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) improv-
ing or altering any
articles or
materials
without making
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;
and

(b) the production of goods
that the Commissioner
General determines are
produced by a process
which results in the
transformation of the raw
material, or intermediate
goods, used in the process
(hereinafter referred to as
“production inputs”) into
goods that are new or
distinct, having regard to
their name, use or character
(including where the goods
produced possess unique
physical, chemical,
technological, legal or
commercial characteristics)
when compared to the
production inputs used;

“production of primary products” means the production (whether by means of cultivation, growth, breeding or rearing or otherwise) of –

(a) agricultural crops, livestock, poultry or dairy products in the course of conducting farming operations;

(b) products directly derived from apiculture operations;

(c) timber and other tree products in the course of conducting forestry operations;

(d) seeds, flowers, shrubs, herbs and other plants in the course of conducting horticultural operations;

(e) fish and other freshwater and marine organisms in the course of conducting aquaculture operations.”;

(b) in paragraph 1A, as renumbered –

(i) insert immediately after the word “plant” the words “(of a type specified in the Table set out in paragraph 2A)”;

(ii) delete the words “, subject to

sub-paragraph (2) of paragraph 6;” and

- (iii) delete the words “equal to 20 per centum of such expenditure” and substitute the words “calculated on such capital expenditure at the rate specified in the Table set out in paragraph 2A.”;

(c) in paragraph 2 –

(i) in sub-paragraph (1) –

(A) insert immediately after the word “plant” where it first occurs the words “(of a type specified in the Table set out in paragraph 2A)”;

(B) delete the words “(except in the case in which an election under paragraph 3 of this part has effect)” and substitute the words “(subject to paragraph 3 of this Part)”;

(ii) delete sub-paragraph (2) and substitute the following –

“ (2) The annual allowance shall be calculated on the capital expenditure referred to in sub-paragraph (1) at the rate specified in the Table set out in paragraph 2A.”;

(d) insert next after paragraph 2 the following –

“2A. The following is the table referred to in paragraphs 1 and 2 –

TABLE

Type of Machinery or Plant	Initial Allow- ance Rate	Annual Allow- ance Rate
Machinery or plant directly used in the production of primary products or in the manufacture of goods, or automated machinery used for packaging such primary products or manufacture d goods	25%	12.5%
Automatic data processing equipment, calculators, cash registers and other equipment falling within Headings 84.70 and 84.71 of the Jamaica Customs Tariff, as well as parts	25%	20%

and
accessories
of such
equipment

Office 0% 20%

equipment
falling
within
Headings
84.69 and
84.72 of the
Jamaica
Customs
Tariff;
telephones
and other
equipment
falling
within
Heading
85.17 of the
Jamaica
Customs
Tariff; as
well as parts
and
accessories
of such
equipment

Other 0% 12.5%

machinery
and plant

(e) in paragraph 3 –

(i) delete sub-paragraphs (1) and (2)
and substitute the following –

“ (1) A person to
whom an annual allowance in
respect of capital expenditure on
any machinery or plant is to be

made may, in the first year of assessment in which an annual allowance is to be made, apply to the Commissioner General to approve the calculation of the allowance in accordance with sub-paragraph (2) the first year of assessment and subsequent years of assessment.

(2) If the Commissioner General approves an application under sub-paragraph (1), the annual allowance shall be calculated on the relevant capital expenditure at a percentage which is equal to the fraction, of which the numerator is one and the denominator is the number of years (as determined by the Commissioner General) of the anticipated normal working life of machinery or plant of the same class as the machinery or plant that is the subject of an application under sub-paragraph (1).” ,

(ii) in sub-paragraph (4) –

- (A) delete the word “election” where it first occurs and substitute the word “approval”; and
- (B) delete the words “making the election” and substitute the words “to whom an approval has been given under this paragraph”,

(iii) delete sub-paragraph (5).” .

(f) in paragraph 6 –

- (i) delete from sub-paragraph (2), all the words appearing after the words “motor vehicle”;
- (ii) insert next after sub-paragraph (2) the following –

“(2A) Subject to sub-paragraph (6), the annual allowance in respect of a trade vehicle shall be 20% of the capital expenditure on the purchase, alteration or improvement of the vehicle.”;

(iii) delete from sub-paragraph (3) –

(A) the words “motor vehicle” and substitute the words “private vehicle”; and

(B) all the words appearing after the word “improvement” and substitute the words “of the vehicle, up to a maximum in any year of an amount in Jamaican dollars that is equivalent to US\$4,375 (calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the vehicle was purchased, altered or improved).”;

(iv) delete from sub-paragraph (5) the amount “\$3,200” and substitute the words “an amount in Jamaican dollars that is equivalent to US \$35,000 (calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the relevant vehicle was purchased, altered or improved)”;

(v) delete from sub-paragraph (7) the words “motor vehicle which is in use for the purposes of the trade” and substitute the words “trade vehicle for the purposes of trade”;

(vi) delete from sub-paragraph (8) –

(A) the words “\$3,200,” in both places where they occur in sub-paragraph (b) and substitute the words “the amount in Jamaican dollars that is equivalent to US\$35,000

(calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the relevant vehicle was purchased, altered or improved),”; and

(B) the words “motor vehicle” in sub-subparagraph (c) and substitute the words “trade vehicle”; and delete the words “the trade” and substitute the word “trade”;

(vii) delete from sub-paragraph (9), the words “\$3,200 less any initial or annual allowances” and substitute the words “the amount in Jamaican dollars that is equivalent to US\$35,000 (calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the vehicle was purchased or acquired) less any annual allowances”;

(viii) delete sub-paragraph (11) and substitute the following –

“(11) In this paragraph –

“motor vehicle” means a motor vehicle as defined in section 2 of the *Road Traffic Act*;

“private vehicle” means a motor vehicle that is not a trade vehicle;

“trade vehicle” means a motor vehicle that is–

(a) a vehicle of a type not commonly used as a private vehicle and which is unsuitable to be so used;

(b) a vehicle that is duly licensed for use, wholly or mainly, for the carriage of members of the public at large in the ordinary course of trade and which

is not one used, by the person claiming an allowance in respect of the vehicle, wholly or mainly for the carriage of persons connected with that person or officers or employees of such connected persons;

(c) a vehicle of a construction primarily suited for the conveyance of goods or burdens of any description;

(d) a vehicle fitted with dual controls and used by the person claiming the allowance in respect of the vehicle for instruction purposes in the course of that person's business as a driving instructor;

(e) a vehicle that is used, wholly or mainly, for the purpose of providing car rental services or U-drive services; or

(f) a vehicle that is licensed by the Transport Authority under the *Road Traffic Act* as a public passenger vehicle and is operated as part of a "tourism enterprise" within the meaning of section 2 of the *Tourist Board Act.*";

(g) in paragraph 7, delete the words "road vehicle" in the two places where they occur and substitute the words "motor vehicle".

(h) delete paragraph 8.

**Deletion of
PARTS IV,**

Delete PARTS IV, IVA, IVB, V and VI.

**IVA, IVB, V
and VI**
Amendment of In PART VIII -
PART VIII

(a) in paragraph 1(1) –

(i) in the definition of “scientific research”, insert immediately after the word “knowledge” the words “, and includes activities aimed at discovering new knowledge about products, processes and services and applying that knowledge to create new and improved products, processes and services;”, and

(ii) in paragraph (a), insert after the word “class” the words “, or the development of a new trade”;

(b) in paragraph 2 –

(i) in the part before paragraph (a), insert next after the words “carrying on a trade” the words “or proposing to carry on a trade”,

(ii) in subparagraph (c), insert next after the words “carrying on” the words “, or proposes to carry on,”,

(iii) in the part after paragraph (c), delete the words “profits or gains of the trade for the purposes of income tax” and substitute the words “chargeable income of the person for the year of assessment in which the expenditures are incurred, or the sums are paid, as the case may be”.

(c) in paragraph 3, delete the word “ascertaining” and substitute the word “computing”.

**PART IX -
Amendments**

In PART IX –

(a) in paragraph 1 –

(i) in subparagraph (1), delete the words “purchase of patent rights” and substitute the words “acquisition or development of intellectual property rights”,

(ii) in subparagraph (2)(a), delete the words “are purchased” and substitute the words “that are acquired or developed are for”,

(iii) in subparagraph (2)(b), delete the words “purchased” and substitute the words “that are acquired or developed”, and delete the word “patent” in the two places where it occurs and substitute the words “intellectual property rights”, and

(iv) in subparagraph (2)(c), delete the full stop at the end of the subparagraph and insert a semicolon and insert the following next after subparagraph (c) –

“(d) where the capital expenditure by a person on the acquisition or development of intellectual property rights is less than an amount in Jamaican dollars that is equivalent to US\$10,000 (calculated at the Bank of Jamaica weighted average selling rate as at the date when the capital expenditure was incurred), the period of years referred to in this subparagraph shall be five years instead of fourteen years .”;

(b) in subparagraphs (1), (2), (3) and (4) of paragraph 2, delete the words “purchase

of patent rights” where they occur in each of those subparagraphs and substitute the words “acquisition or development of intellectual property rights”;

(c) in paragraph 3 –

(i) in subparagraph (1), delete the words “patent rights” and substitute the words “intellectual property rights”,

(ii) in subparagraph (2), delete the words “patent rights” and substitute the words “intellectual property rights”, and delete the words “the patent is a patent granted” and substitute the words “ the rights have been granted”, and

(iii) in subparagraph (3), delete the words “patent rights” in the three places where they occur and substitute the words “intellectual property rights”;

(d) in paragraph 4, delete the words “patent rights” and substitute the words “intellectual property rights”;

(e) in paragraph 5 –

(i) in subparagraph (1), delete the words “the grant of a patent or an extension of the term of a patent” and substitute the words “the acquisition or development of intellectual property rights or an extension of the period during which intellectual property rights may be owned, used or otherwise exploited”,

(ii) in subparagraph (2)(a), delete the words “the grant or maintenance of a patent or the obtaining of an extension of a term of a patent” and substitute the words “the acquisition, maintenance or development of intellectual property rights or the obtaining of an extension of the period during which intellectual property rights may be owned, used or otherwise exploited”, and

(e) in subparagraph (3), delete the words “a patent is granted” and substitute the words “an intellectual property right is acquired or developed”;

(f) in paragraph 6 -

(i) in subparagraph (1)(b), delete the words “patent rights” and substitute the words “intellectual property rights”, and

(ii) in subparagraph (2), delete the word “patents” and substitute the words “intellectual property rights”;

(g) in paragraph 8(1) -

(i) in the definition of “income from patent rights”, delete the word “patents” and substitute the words “intellectual property rights”, and delete the words “a patent” and substitute the words “an intellectual property rights”,

(ii) in the definition of “the commencement of the patent”, delete the words “the patent” and substitute the words “the intellectual property right”, delete the words “a patent” and substitute the words “an intellectual property right”, and delete the words “the patent rights become” and substitute the words “the intellectual property right becomes”,

(iii) delete the definition of “patent rights” and substitute the following –

““intellectual property rights” means rights of ownership, use or other exploitation of any of the following –

(a) a patent or utility model;

(b) an industrial design;

(c) a layout-design of an integrated circuit;

(d) a trademark, service mark, collective mark, certification mark or a brand;

(e) a geographical indication of source;

(f) a trade secret, know-how or

technology transfer;

- (g) an internet domain name or a publishing title;
- (h) a copyright;
- (i) a licence to conduct activities that are regulated by the Office of Utilities Regulation, the Spectrum Management Authority or the Broadcasting Commission’
- (j) a right to use a submarine communications cable, a fibre optic network, electronic data storage or related facilities.”, and

(iv) insert the following definition in the appropriate alphabetical sequence –

““know-how” means any industrial information or technique that is likely to assist in the manufacture or processing of goods or the provision of services.”.

(h) in paragraph 8(2), delete the words “patent rights” in the three places where they occur and substitute the words “intellectual property rights”, delete the words “the patent” and substitute the words “the intellectual property right”, and delete the words “a patent” and substitute the words “an intellectual property right”;

(i) in paragraph 8(3), delete the words “a patent” and substitute the words “an intellectual property right”; and

(j) insert the following next after paragraph 8 –

“9. Any expenditure in respect of which an allowance is made under this Part shall not be available for relief under any other Part of the First Schedule or under any other provision of the Act.”.

**Insertion of
New Fifth
Schedule.**

Insert next after the Fourth Schedule the following as the fifth schedule –

“ **FIFTH SCHEDULE (section 48B)**

Junior Stock Market Companies

1. Subject to the conditions specified in paragraph 2 and such further conditions relating to the relief to be granted or other matters, as may be prescribed in relation thereto, a newly eligible company is, for each year of assessment falling within the incentive period , entitled to the specified incentive relief.
2. The conditions referred to in paragraph 1 are that the newly eligible company –
 - (a) is required to be listed on the Main Market or the Junior market for a combined continuous period of not less than ten years from the date of initial admission; and
 - (b) should not have been temporarily de-listed by reason of being suspended from the Junior Market or the Main market for any breach of the Junior Market Rules or Main Market Rules (as the case may be) or de-listed in other circumstances.
- 3 If any term or condition imposed on a newly eligible company under or by virtue of this section is breached, then the company shall immediately become liable to pay all tax under this Act which , but for this provision, would otherwise have been payable by it under this Act, from the time of its initial admission.
- 4 For greater certainty, it is declared that –
 - (a) an existing eligible company continues to be entitled to relief in accordance with the specified Remission Notice;
 - (b) the specified Remission Notice does not apply to newly eligible companies.
- 5 In this Schedule –

“admission” means admission of the participating voting shares or other securities of an eligible company to

trade on the Junior Market;

“eligible company” means a company that meets the requirements of the Junior Market Rules for the purposes of the admission to the Junior Market and whose participating voting shares are admitted for trading thereon;

“existing eligible company” means an eligible company that immediately before the 1st day of January 2014 was a company to which the specified Remission Notice applied;

“initial admission” means initial admission of the Participating Voting Shares of an eligible company to trade on the Junior Market;

“Junior Market” means the junior market platform of the Jamaica Stock Exchange for the trading of the participating voting shares or other securities of eligible companies;

“Junior Market Rules” means the Rules of the Junior Market published by the Jamaica Stock Exchange as may be amended or supplemented from time to time;

“Main Market” means the Main Market platform of the Jamaica Stock Exchange;

“Main Market Rules” means the rules of the Main Market published by the Jamaica Stock Exchange as may be amended or supplemented from time to time;

“incentive period ” in relation to a newly eligible company, means the period of up to five years immediately following the date on which the company became an eligible company;

“newly eligible company” means a

company that has become an eligible company at any time between the 1st day of January 2014 and the 31st day of March 2016;

“participating voting shares” means –

- (a) ordinary shares or stock units; or
- (b) ordinary preference shares or stock units; or
- (c) any other shares or stock units,

in respect of which, an eligible company secured initial admission to the Junior Market and which qualify for equity treatment under International Financial Reporting Standards (“IFRS”);

“specified Remission Notice” means the Income Tax (Jamaica Stock Exchange Junior Market) (Remission) Notice, 2009, published in the *Jamaica Gazette* on August 13, 2009;

“specified incentive relief”, in relation to –

- (a) an existing eligible company, means the remission from income tax granted under the specified Remission Notice;
- (b) a newly eligible company, means exemption from the payment of one hundred per cent of the income tax that the company would, under this Act, have been liable to pay in respect of income, profits and gains, had it not been an eligible company.”.

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to –

- (a) amend the *Income Tax Act* to include new fiscal incentives that are of general application and enhance existing fiscal incentives under that Act; and
- (b) repeal certain enactments that grant fiscal incentives to specific sectors of the economy.

The amendments to the *Income Tax Act* include –

- (a) fixing the corporate income tax (“CIT”) rate at 25% for all unregulated companies; the CIT rate for regulated companies would remain at 33⅓%;
- (b) the introduction of an employment tax credit against income tax payable by companies and individuals carrying on a trade, profession or vocation.

The Bill further seeks to make extensive amendments to the capital allowance provisions in the First Schedule to the *Income Tax Act*. The Bill also introduces a Fifth Schedule to that Act to make provision in relation to companies admitted on the Jamaica Stock Exchange Junior Market platform.

As a revenue-protection measure, the Bill would limit the amount of prior-year that could be deducted from income.

With regard to enactments that are to be repealed, the Bill provides that persons who are entitled to incentives for a period of time specified pursuant to a repealed enactment would be given the

choice of continuing that entitlement or electing to benefit from the new incentives regime.

This Bill is a companion measure to a package of fiscal incentive measures, including –

- (a) the Income Tax Relief (Large-scale Projects and Pioneer Industries) Bill;
- (b) a Customs Tariff (Revision) (Amendment) Resolution;
and
- (c) a Stamp Duty Act (Amendment of Schedule) Order.

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Minister of Finance and Planning