



TECHNICAL ADVISORY

Re: The Application of the Amendment to the Income Tax Act to include the words Athlete, Entertainer and Musician

This Bulletin expresses the effect of the amendment to section 40(1) of the Income Tax Act to include the words athlete, entertainer or musician.

Legislation:

All reference is to the Income Tax Act ("the Act").

Double Taxation Agreement.

Background

Income derived in Jamaica by non-resident athletes, entertainers and musicians is subject to Jamaica income tax, pursuant to section 5(1) (a) (iii) of the Act and also in accordance with the relevant Article of the existing Double Taxation Agreement.

However the administration and enforcement of the tax has been a challenge, as non-residents are usually only in the Island for very short periods of time and invariable the tax is not paid/collected.

Amendment:

The Income Tax Act, section 40(1) was amended with effect June 19, 2009 to provide for the deduction of tax from payments made by persons resident to non-resident athletes and entertainers in respect of personal activities exercised in Jamaica.

Section 40 (extract)

(1) "subject to the provision of this section, where payment is made to a person who is not resident in the island by a person resident in the island in respect of any interest of money, royalty, annuity, or other annual payment, or in respect of rent accruing from property situated in the Island, or in respect of the provision of industrial or commercial information or advice, or management or technical services or similar services or facilities or **personal activities exercised by an athlete, entertainer(such as a theatre, motion picture, radio or television artiste) or musician, or services in promoting such activities...**"

The effect of the amendment is that persons who make payments to non-resident athletes, entertainers and musicians in respect of their services exercised in the Island, are required to deduct from such payment income tax at the applicable rate and to pay over to the Commissioner of the Inland Revenue Department within fourteen days after the calendar month in which the payment was made.

NB. In all the Double Taxation Agreements that Jamaica has concluded, the relevant Articles in relation to the specified income, provides for taxing rights to the source country, that is, the income is subject to tax in the State in which the activities is exercised.