



## TECHNICAL ADVISORY (Volume 1, Issue 1; September 2005)

### RE: TAX STATUS OF DIVIDENDS PAID BY PUBLICLY LISTED AND TAX EXEMPT COMPANIES UNDER THE INCOME TAX ACT.

#### Issue:

There are varying interpretations of the treatment of dividends paid by Publicly Listed Companies under the Income Tax Act, and more specifically the treatment of franked income since the inclusion of Section 30(3) in the Income Tax Act.

(For more on Franked Income, see **IROC Bulletin of January 2004**, entitled "*Franked Income*".)

#### Legislative References:

The Income Tax Act:

- Section 30(3)
- Section 37 (7)
- Section 38(4)

#### Ruling:

In order to clarify the issue, reference is made to;

1. **Section 38(4)** of the Income Tax Act - which speaks to 'a *body corporate subject to tax*' and
2. **Section 30 (3)** which provides the details as it relates to the rates of tax to be applied to such companies listed on the Jamaica Stock Exchange.

The following guidelines have been developed with reference to the above mentioned sections and should be applied to cases of a similar nature.

1. Dividends paid by a publicly listed company to its shareholders and onward to the ultimate shareholders of these shareholders **are taxable at a rate of 0%**. The result? No tax is deductible at each subsequent stage of payment.
2. By virtue of the Dividend Income being taxed at a rate of 0%, **the tax liability of each subsequent recipient of such dividend income would be nil**, that is, no tax is deductible from the dividends distributed
3. **The dividend income received is *not* exempt income** but income taxed at the rate of 0% under Section 30(3).
4. It must be noted that **such dividends would form a part of statutory income** and the tax computed at a rate of 0% on such dividends, being *income tax payable on dividend income derived from companies listed on the Jamaica Stock Exchange with effect from April 1, 2002.*

### **Taxation of Dividends paid by a Tax Exempt Company:**

1. **Section 37(7)** ( Income Tax Act) allows the Commissioner to authorize a company in receipt of any amount of dividends which, pursuant to any enactment, are exempt from income tax, from another company (tax exempt company), to pay that amount as dividend to its shareholders free of income tax subject to the provisions of Subsection 8, Income Tax Act.
2. The distribution of such dividends by such shareholders to subsequent shareholders is subject to withholding tax at the applicable rate of 33 1/3%, in the case of a bodies corporate, or 25% in the case of individuals).
3. Consequently, these dividends now become Franked Income and Section 38(4) of the Income Tax Act will be applicable to any further distribution of this franked income.

#### **DISCLAIMER:**

This Advisory is a guide only and is not a substitute for the Income Tax Act and any other relevant Legislation.