



Technical Advisory
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Re: Tax Credit on Motor Vehicles
(Regulation 14(5) (b))

Update:

**Originally published as an IROC Advisory in 2002.
The GCT Act was amended in December of 2003, to clarify Regulation 14 (10). This amendment states that this provision does not include motor vehicles.**

Issue

This Advisory relates to Tax credit on motor vehicles pursuant to Regulation 14 (5) (b).

Legislation:

All legislative references are made to General Consumption Tax Act 1991, unless otherwise stated.

This Ruling applies to tax credit allowable on the purchase of motor vehicles mentioned on Regulation 14(5)(b) and 14(6A)

The Practice

The practice of the GCT Department & TAAD with respect to the above is that a registered taxpayer is able to claim the GCT allowable on the purchase of a motor vehicle over a twenty-four month period. Any registered taxpayer who - in the process of an Audit - is found to have claimed all the allowable credit on the purchase of a motor vehicle in a single period, would have had these periods adjusted.

Arguably, the intention of the Legislature was that tax credits on motor vehicles should be claimed over a period of twenty-four (24) months. *However a careful reading of the Regulation however does not support the practice.*

Ruling

1. **Tax credits** allowed on motor vehicles can be claimed in full in the period that the transaction occurred, subject to Section 6 of the GCT Act.
2. **Regulations 14(2) and 14(10) do not apply to motor vehicles referred to in Regulation 14(5), (6) & 6(A)(b)** which governs all motor vehicles.
3. It is a **TAX CREDIT** and not **INPUT TAX CREDIT**, which is granted in respect of motor vehicles stated in Regulation 14(5) and 14(6A).

The exception is, where a registered taxpayer whose taxable activity is the provision of U-drive and is licensed under the Tourist Board Act, purchases motor vehicles for the exclusive use in that activity, he may claim an input tax credit for, *(over a twenty four month period and in equal instalments)*, all the tax stated on the tax invoice.

Before a credit can be claim the following should be noted:

1. The vehicle must be purchased in the name of the taxpayer;
2. The vehicle must be acquired for use in the taxable activity; and
3. Tax must have been charged or paid on importation.

The Law

I. GCT Regulation 14(1) -

Subject to paragraphs (2), (3), (4),(5), (6) & (6A), a registered taxpayer shall, in respect of a taxable period, be entitled to claim as a credit any **input tax payable by him** during the period and **any other amounts** specified in the regulation.

II. GCT Regulation 14(2) -

“ For the purposes of paragraph (1), the **input tax** in relation to which a credit may be claimed shall be the sum of -

(a) any amount stated on a tax invoice issued to the registered taxpayer in respect of taxable supplies made to him during a taxable period: and

(b) any input tax paid by that registered taxpayer in the importation of taxable supplies into Jamaica, being supplies used by the registered taxpayer in carrying out his taxable activity”.

III. GCT REGULATION 14(5):

A registered taxpayer shall be entitled to claim as a **tax credit** -

(b) subject to paragraph (6) and 6 (A)

(i) 6.5% of the cost inclusive of tax...

(ii) an amount equivalent to the tax paid in respect of any other motor vehicle not referred to in subparagraph (i)...

(iii) 13% [prior to June 18, 1993 the...] of the cost, inclusive of tax of any motor vehicle...

IV. GCT Regulation 14 (10) –

“ A registered taxpayer who acquires machinery or equipment for use in his taxable activity shall be entitled to claim as a credit -

(j) at the end of the taxable period in which such **input tax** is charged **all of the input tax** if-

a. the consideration for such machinery or equipment is \$20,000 or less;

(ii) the machinery or equipment is approved under the modernization of Industry programme for his business; or

(iii) the value of the goods he exports is at least 25% of the value of the goods he manufactures or an amount equivalent in Jamaican dollars to US\$5,000,000 as the case may be ;or

(b) over a period of twenty-four months the **input tax charged** on such machinery or equipment”.

THE DEFINITIONS:

“Input Tax”

In relation to a registered taxpayer means -

(a) **tax charged under Section 3 (1)** on the supply of goods and services made to that taxpayer or on the importation into Jamaica of goods and services by that taxpayer being goods and services **required wholly or mainly for the purpose of making taxable supplies**: or

(b) tax charged under Section 9 on the importation into Jamaica of such goods being prescribed goods acquired wholly or mainly for the purpose of manufacturing taxable supplies;

“Tax” means -

- (a) General Consumption Tax imposed under Section 3;
or
(b) Special Consumption Tax imposed under Section 9;

Analysis of the Specified Provisions

1. By virtue of the operation of Regulation 14(1), the input tax granted under Regulation 14(2) does not apply to motor vehicles.

2. Generally, regulations 14(5), (6) and 6(A) govern all motor vehicles. Specifically, paragraph 14(5)(b)(i) covers motor cars and "*motor vehicles ...constructed solely for the carriage of passengers*" and which can carry up to ten persons. Included are station wagons, estate cars, Range Rovers, Jeeps, Pathfinders or similar vehicles. Paragraphs 14(5)(b)(ii) and (iii) cover other types of motor vehicles including trucks, tractors and motorcycles. Thus, it appears that all types of motor vehicles are addressed in paragraph 14(5).
3. The cost referred to in regulation 14(5)(b)(i) is a tax-inclusive cost, being the cost to the registered taxpayer.
4. Under paragraph 14(5) (b), the test is whether or not the motor vehicles are used "*for the purposes of the taxable activity*". This would include use as the taxable supply (as in the case of car dealers), as an inducement by way of advertisement for the business (as in the case of cars given as prizes) or to carry out the business (as in the case of cars used to make deliveries).
5. The test of whether or not an item is used "*for the purpose of the taxable activity*" is a subjective one, in that it is the intent of the registered taxpayer, which must be examined. However, on a cautionary note, that intent may be tested against the standards and thinking of the ordinary businessman where there is no obvious or clear association with the taxable activity and the expenditure.
6. The registered taxpayer must be able to show that he had the vehicle for use for the purposes of his taxable activity.
7. **Regulation 14(10) would not apply to motor vehicles described under paragraph 14(5) (b). Regulation 14(10) requires that the input tax, which is charged, be pro-rated over 24 months. However, under 14(5) (b) it is a tax credit, and not input tax credit which is granted.**

Section 11 of the Road Traffic Act

11. Classification of motor vehicles.

11. (1) Motor vehicles shall, for the purposes of this Act and regulations made there under be divided into the following classes -

(a) motor tractors; that is to say, motor vehicles which are not constructed themselves to carry any load other than the following articles, that is to say, water, fuel, accumulators and other equipment used for the purpose of propulsion, loose tools and loose equipment;

(b) trucks; that is to say, motor vehicles (not being classified under this section as motor cars) which are constructed themselves to carry a load or passengers or both;

(c) motor cars; that is to say, motor vehicles (not being classified under this section as motor cycles or invalid carriages) which are -

(i) constructed solely for the carriage of passengers exclusive of the driver;

(ii) adapted to carry not more than seven passengers exclusive of the driver,

(d) private motor cars; that is to say, motor vehicles whether "trucks" or "motor cars", within the meaning of this section, (not being vehicles classified as "commercial motor cars") constructed solely for the carriage of passengers and their effects and used exclusively for personal purposes;

(e) motor cycles; that is to say, motor vehicles (not being classified under this section as "invalid carriages") with less than four wheels and the unladen weight of which does not exceed eight hundredweight;

(f) invalid carriages; that is to say, motor vehicles, the weight of which unladen does not exceed five hundredweight and which are specially designed and constructed, and not merely adapted, for the use of persons suffering from simple physical defect or disability and are solely used by such persons;

(g) trailers; that is to say, vehicles without motive power designed or used for carrying goods or freight or persons wholly on their own structure and for being drawn by a motor vehicle.

(2) For the purposes of this Part -

(a) in any case in which a motor vehicle is so constructed that a trailer may by partial superimposition be attached to the vehicle in such manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle, that vehicle shall be deemed to be a vehicle itself constructed to carry a load; and

(b) in the case of a motor vehicle fitted with a crane, dynamo, welding plant or other special appliance or apparatus, which is a permanent or essentially permanent fixture, the appliance or apparatus shall not be deemed to constitute a load but shall be deemed to form part of the vehicle; and

(c) a side-car attached to a motor cycle shall be regarded as forming part of the vehicle to which it is attached and not as being a trailer.