



# TRANSFER PRICING IN JAMAICA

Tax and Development Programme

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TAJ TRANSFER PRICING SENSITISATION SESSION  
KINGSTON, JAMAICA  
JANUARY 2016



# Agenda

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- **Why transfer pricing?**
- About the Tax and Development Programme
- About Jamaica's approach to transfer pricing
- Conclusions



# Transfer Pricing

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TP is important for developing countries

- Increasingly opening borders to trade and investment.
- 2/3 of all cross-border business is between companies belonging to the same group (MNEs).
- Need to collect tax on profits MNEs earn in their countries without discouraging/distorting international trade and investment.



# Transfer Pricing

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- International and regional organizations, NGOs and DCs increasingly focusing their attention as is a key issue
- Two outcomes from transfer pricing rules:
  - Promote predictable business climate that provides business with certainty of treatment of international transactions
  - Protect domestic tax base by requiring taxpayers to report profits in line with arm's length principle, and by using the rules to counter artificial cross-border shifting of profit
- TP rules very effective in protecting tax base of many countries



# Example: Without Applying TP Rules



Transfer of  
Goods and  
Services

## Related Party

Turnover	500
Costs	(100)
Expenses	(100)
Taxable Base	300
<b>Tax Rate @7%</b>	21

## Local Entity

Turnover	100
Costs and expenses	(100)
Taxable Base	0
<b>Tax rate @33%</b>	0
<i>Total Group Tax</i>	<u>21</u>



# Example: Applying TP Rules



## Related Party

Turnover  
Costs  
Expenses  
Taxable Base  
Tax Rate @7%

## Local Entity

Turnover  
Costs and expenses  
Taxable Base  
Tax rate @33%  
*Total Group Tax*

	500
	120
	100
	<hr/>
	280
	<hr/>
	19,6
	<hr/>
	120
	100
	<hr/>
	20
	<hr/>
	6,6
	<hr/>
	26,2
	<hr/> <hr/>



# The Arm's Length Principle





# The Arm's Length Principle

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- Controlled transactions are exposed to market forces
- Allows for parity in the fiscal treatment of MNEs and independent enterprises.
- Avoids tax advantages/disadvantages that distort competitive position of enterprises





# Transfer Pricing... in a nutshell

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- Ensure MNEs pay the right amount of tax
- Counter artificial profit shifting and tax avoidance
- Create a predictable business landscape
- Avoid double taxation or double non-taxation
- Promote legitimacy of the tax system



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# OECD's Task Force on Tax and Development

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- Created in January 2010
- Members: OECD and developing countries, international and regional organisations, civil society and business
- Role: Advise OECD Committees to deliver Programme to enable environment for developing countries to collect taxes fairly and effectively.



# Main features of T&D Programme

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- **Objective: Build more effective transfer pricing regimes in developing countries**
- Demand-led based on tax administration needs
- Two to three-year programmes
- Development of tools, guidance and training material
- Provide support on:
  - Technical knowledge
  - Policy issues related to legislation
  - Risk Assessment
  - Organizational changes



# Tax and Development Programme

- Since 2011, TDP providing support for developing countries to implement/strengthen TP rules.
- Support initiatives have been in place in:

Botswana	Cambodia	Colombia	Cameroun	DRC
Ethiopia	Ghana	Jamaica	Kenya	Liberia
Malawi	Namibia	Nigeria	Peru	Rwanda
Senegal	Sri Lanka	Togo	Tunisia	Uganda
Vietnam	Zambia	Zimbabwe		



# T&D Programme's Results

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- Adoption of internationally accepted principles (homogeneous among countries)
- Legislative changes (Primary and secondary)
- Design of appropriate governance structures
- Design of risk assessment processes
- Implementation of APA / MAP programmes.
- Drafting of Guidance
- Specification of documentation requirements
- Design of return schedules
- Increase in revenue collection



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# International trend on tax avoidance

**MailOnline**  
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## A third of UK's 700 biggest businesses pay no corporation tax

By GWYNETH REES  
Last updated at 08:21 28 August 2007

Comments (0) | Share

Nearly a third of the UK's 700 biggest businesses paid no corporation tax in the 2005-2006 financial year, an official study has revealed.

A further 30 per cent paid less than £10 million each in tax.

And of the tax paid by these businesses, two-thirds came from just three industries - banking, insurance and oil and gas - while the alcohol, tobacco, car and gas - estate sectors paid only a few hundred million pounds.

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HOME QUICK NEWS OPINION MARKET DATA Our Company | Professional | Anywhere  
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## Fuel Costs Plus U.S. Drought Equals Higher Food Prices

## U.S. Companies Dodge \$60 Billion In Taxes With Global Odyssey

By Jesse Drucker - May 13, 2010 9:00 PM GMT+0200

0 COMMENTS

Tyler Hurst swiped his debit card at a Walgreens pharmacy in central Phoenix and kicked off an international odyssey of corporate tax avoidance.

Hurst went home with an amber bottle of Lexapro, the world's third-best selling antidepressant. The profits from his \$99 purchase began a 9,400-mile journey that would lead across the Atlantic Ocean and more than halfway back again, to a grassy industrial park in Dublin, a glass skyscraper in Amsterdam and a law office in Bermuda surrounded by palm trees.

QUEUE





## Steps taken by TAJ so far

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- Effective Primary legislation
- Subsidiary legislation: documentation, APAs and forms to be prescribed
- Creation of a TP-specialist dedicated team
- Strengthening technical TP skills
- Effective risk assessment and case selection processes
- Effective audit processes and governance procedures
- Identification of taxpayers subject to TP regime
- Broadened Tax Information Exchange network to facilitate administrative cooperation between authorities



# Main issues on Jamaican TP Legislation

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- Reference to the Arm's Length Principle
- Definition of connected persons
- Definition of connected transactions
- Taxpayers' compliance criteria
- Transfer Pricing Methods
- Formal obligations
  - Documentation criteria
  - Considering compliance burden
- Penalty provisions
- Introduction of APAs
- Tax administration powers



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# Conclusions

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- Jamaica has introduced internationally accepted principles that seek to avoid double taxation
- Jamaican TP rules also create certainty and consistency for business
- Investment: This generates transparent and predictable investment climate
- Tax collection: This enables environment for fair and effective tax collection



## Next Steps

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- TAJ aligning Transfer Pricing Unit under international best practices
- TAJ interested in improved taxpayer service
- Additional focus on increased audit revenue for Domestic Resource Mobilisation
- See TAJ as your business partner



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