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BUILDING A BETTER FUTURE, CREATING AN ECONOMIC RESILIENT JAMAICA

The Importance of Research and Development to the Jamaican Economy

- Daniel Passley, Ministry of Finance and the Public Service



Minister of Finance and the Public Service, Dr. the Hon. Nigel Clarke, addresses the House of Representatives on February 26. He also tabled the Microcredit Act (2019).

The Government of Jamaica will be dedicating funds from his 2019/2020 National Budget to finance Research and Development (R&D) activities; with plans to make it a sub-sector of Jamaica's Gross Domestic Product (GDP) come September of next year.

Minister of Finance and the Public Service, Dr. the Honourable Nigel Clarke, made the pronouncement a week before the tabling of the Estimates of Expenditure for the fiscal year 2019/2020. Speaking at the opening ceremony of the University of the West Indies, Mona Research Day on February 6, 2019, he said the Government is "making its intention clear that research is fundamentally important to the growth and development of Jamaica."

"We need to do it in a way that can sustainably be maintained" he added.

Research and Development is creative and systematic work done to increase the stock of knowledge including understanding of humankind, culture, and society and to create

new applications of available knowledge.

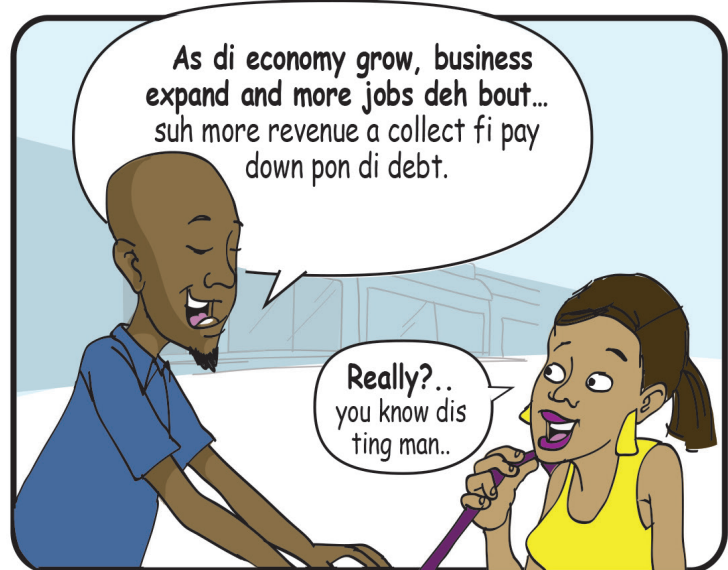
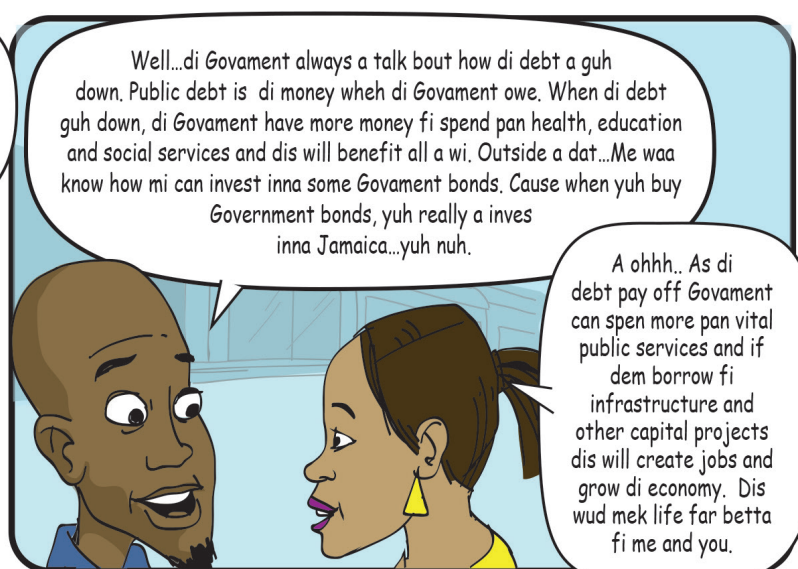
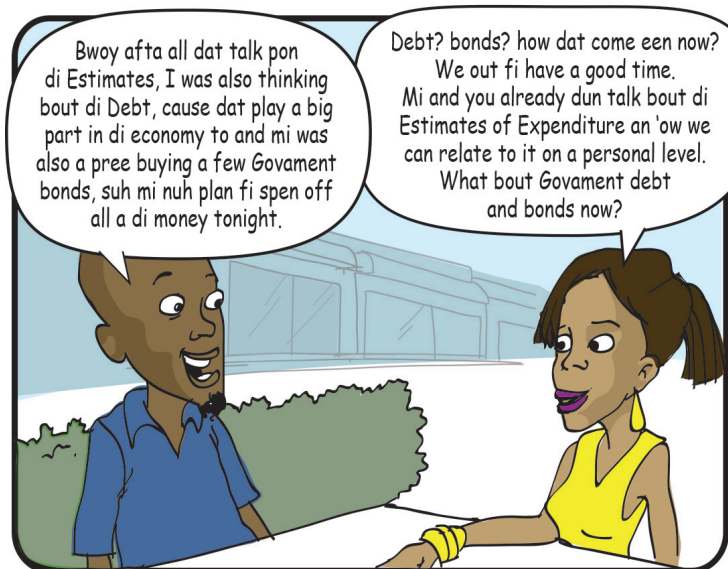
Research and Development, can offer significant benefits to an economy, particularly those that are commercialised. According to Jamaican attorney-at-law, Dianne Daley "commercialisation is the key to successfully transforming an intangible idea into a tangible product/process and bringing it to market".

Jamaica has benefitted from the commercialisation of a number of patents in the past. One example is the "Oral Pre-Biotic for the Normalization and Maintenance of Healthy Intestinal Flora" 3643 patent which was granted in 2006 to individual inventor Dr. Robert Robinson. This product is an oral pre-biotic which ensures the production of immune enhancers promote optimal functioning of the body's immune system and leads to weight loss.

Developed countries have research organizations which dedicate a significant portion of their funds to R&D. One German research organization, the Fraunhofer-Gesellschaft – the

largest organization for applied research in Europe, conducts research under contract for industry, the service sector and public administration and also offers information and services. One of its most famous inventions was the technology which allows music to be recorded and played from the Internet (MP3.) This was developed by the Fraunhofer Institute for Integrated Circuits IIS. MP3 is the most widely used method for encoding and decoding digital audio data.

According to the Ministry the talent and creativity of Jamaicans, if gainfully exploited can result in significant development of innovation, which when commercialised can yield revenue for the government, contribute to the Gross Domestic Product and prove profitable for the innovator or inventor.



“A Wrap on Tax Expenditures”

Taxation Policy Division, Ministry of Finance and the Public Service

The government on February 14 tabled the ninth Tax Expenditure Statement (TES), in keeping with Section 48F of the Financial Administration and Audit Act (FAA Act).

The Act is the legal framework, which provides for the annual tabling of a TES by the Honourable Minister of Finance in Parliament as part of the regular Budget exercise. The first tax expenditure statement was tabled by Government in April 2011.

A “**tax expenditure**” occurs as a result of specific provisions that result in a reduction of tax payable by a specific type of taxpayer or activity. In Jamaica, the TES contains details of the various expenditures including exemptions, reduced rates, deductions and credits granted in selected calendar years. Not only does the tax expenditure statement provide an overall

estimate of the costs associated with the above-mentioned provisions but it is also a useful tax policy planning tool that helps to identify how much Government is potentially foregoing in taxes annually from among other things various exemptions and deductions.

Such mechanisms deliberately exist in the tax code in an attempt to improve the living standards of many vulnerable members of the society. Vital information from the TES also assists policymakers to take better evidence-based decisions relating to the sustainable medium term framework by identifying and curtailing areas where the potential revenue foregone appears significant.

Additionally, the tax expenditure statement is helpful as it provides estimates of the various expenditures (other than direct spending – money

spent on roads and bridges) that Government spends indirectly on various programmes/initiatives through the tax code. As such, tax expenditures are not amounts that governments actually spent out of pocket but rather potential money foregone in tax revenue. Researchers simply describe a tax expenditure as “a Government giving by not taking”.

At this point, we provide a simple example of a tax expenditure for illustrative purposes. The Jamaican Government by not applying the 16.5 per cent standard general consumption tax (GCT) on selected basic foods such as flour, cornmeal and rice, is actually giving consumers a tax exemption on products that are used by the most vulnerable in society. Such a policy initiative results in potential foregone GCT revenue manifested by a general consumption tax expenditure in the amount of roughly **\$3.43 billion in 2017**. This estimate

is specifically listed under the category “Basic Foods” on page 32 of the 2019 TES.

Nevertheless, it is important to note that tax expenditure estimates are intended to roughly indicate the potential revenue gain that might be realized by removing the respective preferential tax treatments. Consequently, it **does not** necessarily follow that there would be a commensurate increase in tax revenue from the abolition of a particular tax expenditure. It must be emphasized that **tax expenditure estimates are not cash expenditures** but rather accrual based estimates of potential foregone revenue. This is important to bear in mind since it is illogical to report tax expenditures on a fiscal year basis, as the fiscal year is essentially a cash construct.

Finally, tax expenditures by nature are controversial, globally.

This is because what specifically constitutes a tax expenditure is at times, subjective. Such a situation is not unique to the Jamaican context. As a result, the Ministry of Finance and the Public Service assumes no responsibility for any disagreement which might result as to what constitutes tax expenditures locally. One should also bear in mind that Jamaica’s tax expenditures are presented in the TES for five major ‘tax’ types (**i.e. General Consumption Tax, Income Tax, Education Tax, Trade Tax and the Special Consumption Tax**) only, which when combined, account for the majority of total tax revenue. Furthermore, tax expenditures that could not be meaningfully quantified within a reasonable margin of error were excluded from the TES and as a result, the presented tax expenditures are not necessarily exhaustive.

Appeals and Dispute Resolution – A Building Block of Fairness in Tax Collections – *The Revenue Appeal Division,*

Ministry of Finance and the Public Service

The Government of Jamaica has adopted a three tier appeals mechanism that gives aggrieved taxpayers three or more opportunities in a graduated process to have their grievances addressed.

The Revenue Appeals Division (RAD) is the division in the Ministry of Finance and the Public Service that has responsibility for executing the appeals function available at the second tier.

Assurance of fairness in the administration of taxes is a crucial component of any modern tax system. Fairness engenders trust and a high degree of trust can result in higher levels of tax compliance. Therefore fairness in taxation must be contemplated when developing tax policy, taking steps to collect taxes deemed due and the mechanisms engineered to spend and account for public funds.

One of the building blocks of fairness is the provision of an independent appellate body that is efficient and effective in resolving disputes that may arise between revenue authorities and the taxpayers. Having the right to appeal a tax assessment or penalty charge is fundamental in demonstrating to taxpayers that the process of levying taxes is fair.

The Revenue Appeals Division Act, 2015 sets out the legal framework and rules that instruct the RAD. The RAD Act is the successor of The Revenue Administration Act (Appeals and Disputes Settlement) Regulations, 2002 and continues the convention of providing the right to appeal without penalty, charge or the use of litigation. Any taxpayer, who having exhausted the appeal procedures within the revenue authority and is still aggrieved, can access the services of the RAD. This is applicable to the decision of any revenue commissioner that establishes or concerns a tax liability.

In the RAD Act, a revenue commissioner includes the Commissioner General of Tax Administration Jamaica, the Commissioner of Jamaica Customs Agency, the Commissioner of National Land Agency, and the Commissioner of Revenue Protection Division. This means therefore that a taxpayer can appeal a decision relating to individual income tax, company income tax, PAYE & education tax, contractor's levy, withholding tax, asset tax, general consumption tax, guest accommodation and room tax, customs valuation and customs duties, stamp duty, transfer tax, and property tax. Building on the

valuable experience inherited from its predecessor the RAD has modernized and re-engineered the appeals process to institutionalize procedural, interpersonal and informational fairness in the day to day business of appeal adjudication. Current procedures anticipate taxpayers' need for: easy access, unbridled transparency, and reliable efficiency. Special care is taken in ensuring that appeal decisions are informed only by the facts of the case and the relevant laws, and that they facilitate learning and customer education.

The work of the RAD is constantly in demand and its decisions are highly respected. On an annual basis, an average of 80 individuals and firms file appeals with the RAD; 90 per cent – 95 per cent of the appeal decisions issued are accepted without further appeal. Additionally, the appellant success rate over the last five years ranges from 45 per cent to 50 per cent. These statistics signal that the appeals mechanism has legitimacy among the taxpayers because they continue to use it. The high level of acceptance of outcomes underscores their faith and confidence in a process that seeks to balance the power between them and the revenue authorities.



Enemies of the Economy- Cybercrime and Anti-Money Laundering AML

The Financial Investigations Division (FID) of the Ministry of Finance and the Public Service is continuing its fight against cyber criminals and money launderers by strengthening its financial investigative skills and cyber forensics in its quest to take the profit out of crime and protect the integrity of the financial system. According to the division, while crime is the number one concern of Jamaicans and is one of the leading obstacles to growth and development, one area that is not often at the fore of this conversation is the area of financial investigations and anti-money laundering.

The FID insist that it is the role of the law enforcement authorities to develop strategies for addressing and stemming the scourge of crime.

Financial investigations refer to the use of specialized techniques and legal tools to uncover financial transactions that are linked to criminal activities. These transactions may be related to a criminal's use of unlawful gains for his own benefit, perhaps to build his home, educate his children or open a business. The use of these ill-gotten gains (proceeds of crime) is described as money laundering. The FID is vested with the

authority to investigate and pursue all financial crimes and money laundering cases. The FID uses various means to pursue these cases. Firstly, it receives and develops financial intelligence from various reports provided by financial institutions and non-financial institutions on suspicious transactions. The reports are considered with other information and data to determine whether the information discloses a reasonable case for investigation. When a case is determined disclosure is then made to law enforcement, the tax department or other regulatory agencies as may be appropriate.

(cont'd.)

PUBLIC POLICY OBJECTIVES AND THE BENEFITS OF DEPOSIT INSURANCE SYSTEMS – *Jamaica Deposit Insurance Corporation (JDIC)*

The Jamaica Deposit Insurance Corporation (JDIC), has assured that the design of the Deposit Insurance Scheme and management of its operations fully supports its mandate reinforcing its commitment to protect depositors and contribute to confidence and stability in Jamaica's financial system.

This it said is particularly evident in the scope of coverage and level of protection provided by the JDIC to depositors. Based on the data received from the member institutions, as at December 2017, 96 per cent of the number of eligible deposit accounts in the banking system was fully insured at the existing coverage limit of J\$600,000. As at the same period, the average account balance in the banking system was J\$226,680. JDIC reviews the coverage limit on an ongoing basis to ensure it continues to satisfy its public policy objectives.

Following Jamaica's 1990's financial crisis, depositors were at risk of losing their deposits except for Governmental intervention with the use of public funds. The Government thereafter established a Task Force to identify the main policy issues and legislative requirements and to make recommendations for the introduction of an explicit Deposit Insurance Scheme (DIS) in Jamaica. A decision was made that a formal DIS should be established to provide stability and safeguard depositors' interest in cases where regulated deposit taking institutions (DTIs) become non-viable and are unable to pay depositors. The Deposit Insurance Act was passed in March 1998 and the JDIC formally commenced operations on August 31, 1998.

This formal framework for Deposit Insurance removed the implicit obligation of Government having to resort to the use of public funds when a DTI fails and placed this obligation squarely within the framework where the JDIC would manage a Fund that would be built up over time from levies on the member institutions (banks and building societies). In the event of a failure of a member institution where the decided resolution option is by way of a payout, then the JDIC would pay depositors up to the prescribed coverage limit. The coverage limit is intended to be sufficiently credible to engender confidence in the banking system and to protect smaller and potentially more vulnerable depositors whose funds ordinarily make up the core deposits in the banking system.

Public Policy Objectives for Deposit Insurance Systems

The decision to establish an explicit DIS and the mandate, design and structure of such systems are influenced by a number of considerations that are unique to each country. The International Association of Deposit Insurers (IADI), the standard setting body for deposit insurance systems, identifies the key policy objectives as: protecting depositors and contributing to the stability of the financial system. Given these overarching policy objectives, some social and economic benefits to be derived from deposit insurance systems include: strengthening a country's financial safety-net; providing a guarantee to depositors; and allowing for the maximization of recoveries from failed banks.

Public Policy Objectives, Design and Structure of Jamaica's Deposit Insurance System

In terms of the public policy objectives above, the design of the DIS in Jamaica and JDIC's management of its operations fully supports its mandate and reinforces its commitment to protect depositors and contribute to confidence and stability in Jamaica's financial system.

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The FID also houses the Financial Investigations team comprised of civilian financial analysts and officers of the Jamaica Constabulary Force (JCF) who have been trained in financial investigations.

Their primary role is to pursue and prosecute the defendants with the aim of depriving them of their ill-gotten-gains. These officers will utilise legal tools such as production orders, account monitoring orders, and search warrants to obtain evidence of transactions and flow of funds to and from the defendants.

Importantly, although criminal conduct is a key feature of these investigations, investigators have the option to either pursue criminal cases or civil cases. The key distinction is that in a civil case

the court does not have to find a defendant guilty on the basis of beyond a reasonable doubt (the criminal standard of proof). Rather the investigators only have to prove that on a balance of probabilities that the assets or monies involved are related to criminal conduct.

A key power of the Division is the ability to apply to the courts for freezing of assets. Restraint Orders are designed to prevent defendants from dissipating or dealing with property that may be subject to forfeiture later, as a result of a criminal or a civil judgement. They are critical to preserving assets which is crucial to taking the profits out of crimes.

The forfeiture of assets is the core of the proceeds of crime objective. If a defendant is convicted of a certain offence (as contained in

Schedule 2 of Proceeds of Crime Act (POCA), 2007) the court may assess the persons benefit from his criminal activity and assess a pecuniary penalty amount that has to be paid to the state. The Division has been increasingly successful in getting these orders against defendants but they require great coordination with prosecutors and other law enforcement authorities for their use to become widespread and commonplace.

Financial investigations techniques are critical to uncovering crimes, such as money laundering, cyber fraud and other offences that affect the commercial sector. That is because financial and certain non-financial institutions – such as gaming lounges accountants and real estate dealers under POCA are obliged to both keep accurate identification and transaction

records, as well as be on the lookout for suspicious activity with an obligation to report these to the FID.

These records provide the evidence to indicate in many cases, the flows of money that surround the economic crimes named above. It is the careful examination of these transactions, tying them together and proving that the funds involved were related to a crime, or were generated from a crime that led to money laundering and other charges.

These financial investigations often have to be supplemented by cyber forensic processes, which relate to the forensic access to and processing of data on digital devices to create evidential material. Thus financial and other evidence is often stored on computers, phones tablets and

other devices. The FID is able to utilise its specialised software tool to recover this evidence in a manner that protects the integrity of the information. This field is becoming increasingly complex given the swift advances that are being made in technology and the emergence of crypto currencies and other new digital currencies and platforms.

Once these criminal activities are brought to light, the FID pursues the money associated with the offences whether by criminal forfeiture or civil recovery.

The FID continues in its fight to pursue these criminal activities and to push the boundaries of financial investigations and cyber forensics in our quest to take the profit out of crime and to protect the integrity of our financial system.

Government Building the Future of Entrepreneurship

– Camille Sinclair, Ministry of Finance and the Public Service

The recently updated 'Micro, Small and Medium Enterprises (MSMEs) and Entrepreneurship Policy (2018)' identifies MSMEs as "important drivers of equity, economic growth and sustained development in Jamaica." The Policy outlined six (6) key priority areas, the first four (4) being 'Creating an Enabling Business Environment,' 'Increasing Finance to the Sector,' 'Enhancing Business and Development Support' and 'Fostering a Culture of Entrepreneurship.'

The Government of Jamaica remains committed to building the MSME sector, establishing

this in the recently tabled 2019/20 Estimates of Expenditure, by announcing its intention to spend \$1 billion to assist with the growth of MSMEs. The funds will facilitate increased access to financing for MSMEs through two projects being undertaken by the Development Bank of Jamaica (DBJ), namely the Credit Enhancement Programme and the Access to Finance for MSMEs project.

Under the Credit Enhancement Programme, which is funded by the Inter-American Development Bank (IDB), a sum of \$600 million has been allocated; while the Access to Finance for MSMEs

project will receive \$400 million, and is funded by the International Bank for Reconstruction and Development (IBRD).

The Credit Enhancement Programme which began in September 2017 and is scheduled to end September 2022, aims to promote investments in MSMEs in Jamaica by enhancing their access to financing, particularly medium and long-term loans. Some 64 bank guarantees are to be issued to MSMEs in the upcoming fiscal year.

In the meantime, the Access to Finance for MSMEs project, which started in March 2018 and

is slated to end January 2023, seeks to increase the number of businesses with guaranteed loans through the DBJ Loan Guarantee Fund; and increase the number of entities getting access to risk capital through the Fund.

The Government has also recognized the importance of developing a culture of entrepreneurship among the youth. This is actively demonstrated in the inclusion of an entrepreneurial programme in the Grade 9 curriculum, as at September 2018. The Junior Achievement Company of Entrepreneurs (JACE), through its Secondary Early Entrepreneurial Development

(SEED) programme, a three-year agreement between the United States Agency for International Development (USAID) and Junior Achievement Jamaica, exposes Grade 9 students to real-life experiences that are intended to build knowledge and capacity, while assisting them with forming their own businesses.

High schools have been mandated to add entrepreneurship to their timetable by September 2019. At the end of the three-year initiative, it is anticipated that approximately 72,000 youth will be impacted with at least 1,900 student businesses being created.