



Tax Administration Jamaica

TECHNICAL NOTE

Imposition of Environmental Levy on Sales by Local Manufacturers and on Imports

**FY 2015/16
Revenue Measures**

April 28, 2015

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Purpose

The purpose of this Note is to provide guidance on the imposition of Environmental Protection Levy (the Levy) on the sale of goods manufactured in Jamaica and re-imposition on imports from CARICOM.

Background

Arising from concerns regarding the damage to the environment caused by harmful waste materials particularly plastic containers Cabinet in 2007 imposed the environmental protection levy.

The imposition of the was first introduced on imported goods (including goods from CARICOM).It was discovered that the imposition of the levy on goods from CARICOM was in conflict with the Treaty of Chaguaramas and as a result, the imposition was discontinued on those goods.

Over the years, a concern has been raised by the Ministry of Foreign Affairs and Foreign Trade regarding the compliance of the levy with World Trade Organization (WTO) standards. The removal of the levy from CARICOM imports also rendered the domestic manufacturers uncompetitive.

In light of the above, GOJ took a decision to impose the levy on sales by manufacturers to mirror the environmental levy on imports. It is intended that this measure will level the playing field and enhance the competitiveness of local industries while realizing a key objective of WTO compliance.

Objectives

The Minister of Finance and Planning, in his presentation to the House of Parliament on March 12, 2015 and as per Ministry Paper # 34/15 – Revenue Measures for Financial Year 2015/2016, asked the Honourable House to approve the imposition of the levy on domestic sales by manufacturers, with a tax credit available for the levy paid on the productive inputs for manufactures and the re-imposition on imports from CARICOM.

This measure will achieve the following objectives:

- To mitigate the negative impact on the environment caused by the specified commercial activity
- Mitigate the negative impact/concerns that could emanate from World Trade Organization (WTO)
- Reduce the inequity currently being faced by Jamaican manufacturers, who have to pay the levy on imports used in the manufacturing process (“levelling the playing field”). The Jamaican manufactures face unfair competition from the importation of goods from CARICOM that are not currently subjected to the

- Broadening of the base on which the levy is imposed

Legislation

References to legislation in this note are to the Provisional Collection of Tax (Environmental Protection Levy) Order 2015 and the General Consumption Tax Act as the case may be.

Effective Date

The effective date of this measure is June 1, 2015.

Administration of the Levy

The administration of the levy is in accordance with the Provisional Collection of Tax (Environmental Protection Levy) Order 2015, and the General Consumption Tax Act as the case may be by;

- Jamaica Customs – imposition on imports
- Tax Administration Jamaica – domestic imposition

Definitions

The following terms are defined in accordance with the Fiscal Incentives (Miscellaneous Provision) Act 2013.

“Manufacture of goods” – First Schedule PART 111 (1)

(a) the production of goods in Jamaica by means of a process of manufacture, but does not include the production of goods which result from a process that consists primarily of any one or more of the following:-

(i) dividing (including cutting), purifying, drying, mixing, sorting, packaging, branding, testing or applying any other similar process to a product, produce or material that is acquired in bulk so as to prepare that product, produce or material for sale or distribution, or any combination of such processes,

(ii) applying methods of preservation or maturation or other similar treatment to any food-stuffs or any combination of such processes,

(iii) cooking, baking or otherwise preparing food or drink for human consumption which is intended to be consumed at or about the time it is prepared, whether or not in the building or structure in which it is prepared, or whether or not the building to which it is delivered after being prepared,

(iv) improving or altering any articles or materials without making a change in their character, or

(v) repairing, refurbishing, reconditioning, restoring or other similar processing of any articles or materials, or any combination or such processes; and

(b) the production of goods in Jamaica that the Commissioner General determines are produced by a process which results in the transformation of the raw material, or intermediate goods, used in the process (hereinafter referred to as “production inputs”) into goods that are new or distinct, having regard to their name, use or character (including where the goods produced possess unique physical, chemical, technological, legal or commercial characteristics) when compared to the production input used

“**Manufacturer of Goods**” means any entity engaged in the manufacture of goods

Imposition of the Levy on sales by local manufacturers, on imports and exports

The Levy is to be imposed on the sales of locally manufactured goods and on imports (including imports from CARICOM) subject to the exemptions as detailed in this document. The Levy is to be imposed by;

1. Local manufacturers on;

(a) The selling price (before GCT and SCT where applicable) discounted by 25%.

The 25% discount is a specified margin rate, which is determined by the Minister of Finance and may be changed from time to time.

2. Customs on;

(a) C.I.F. value

3. Exports

By manufacturers on the selling price (before GCT and SCT where applicable) discounted by 25%.

Recovery of the Levy - Credit Method

Every manufacturer is entitled to claim as a credit the levy paid at the port on the imports of any goods which are used in the manufacture of goods.

This credit does not apply to the levy paid at the port for imports of equipment including parts thereof. Environmental Levy paid on equipment including parts thereof is available to any manufacturer as an expense on the taxpayer’s income tax return (See Section on Expense Method).

Manufacturers who pay the levy on goods intended for use in the manufacturing process from local manufacturers are eligible to claim as a credit the amount paid when accounting for the tax.

Levy NOT Refundable

Where, for any Manufacturer, in any return period the levy (inputs) incurred on imports on goods exceeds the environmental levy (outputs) imposed on domestic supplies, the excess will not be refunded but shall be carried forward to be utilized as a credit.

Any credit that is available at the end of the year of assessment, may be utilized as a credit against the corporate or personal income tax liability of the manufacturer entitled to the credit.

Expense Method

Manufacturers are able to expense the Levy as follows;

The Levy (if any) paid quarterly to Tax Administration Jamaica as per environmental levy returns (EL01) as an expense on the income tax return in respect of the year of assessment in which the Levy was paid.

The Levy can be claimed as an expense by a manufacturer on the income tax return in respect of the year of assessment in which the expense was incurred in respect of all equipment (including parts thereof) imported by a taxpayer. For the avoidance of doubt the levy on capital equipment will be capitalized, and annual capital allowances allowed on the income tax return.

Treatment of:

Donations: Manufactured goods that are taken from stock and given away as donations will have no consideration on which to calculate the levy.

Discounts: Trade discounts are used to reduce the selling price of the goods. The levy is then calculated on the new selling price (before GCT and SCT) discounted by 25%.

Rebates: A is a return of a portion of a purchase price by a seller to a buyer, usually on purchase of a specified quantity, or value, of goods within a specified period. Unlike discount (which is deducted in advance of payment), rebate is given after the payment of the full invoice amount. The manufacturer will make the necessary adjustments to his accounting records to pay the required levy on the reduction in the amount the goods were sold for.

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Refunds: Compensation paid to a customer for over-invoicing or for goods returned. The treatment would be similar to how rebates are treated as the manufacturer would have to make adjustments to his accounting records to pay the levy on the reduced/ new sales figure.

Exemptions

The legislation provides for the exemption from the Levy on:

1. Goods imported (administered by Customs of Jamaica) by;
 - A ministry or department of the Government;
 - A person entitled to immunities or privileges under section 10 of the Diplomatic Immunities and Privileges Act;
 - An arriving passenger of an aircraft or ship (passed as such by a proper officer of customs); where such goods do not exceed US\$500.00the passenger's allowance for duty-free importation under the Customs Act.
 - The bauxite sector.
2. Sales by Local Manufacturers(administered by TAJ) by;
 - Production of bauxite and alumina under the Bauxite and Alumina Industries (Encouragement) Act, which provides for a regime for environmental protection.
 - Charitable organization as defined by the Charities Act
 - Foreign organization as defined in accordance with the Technical Assistance (Immunities and Privileges) Act
 - An Entity that is an international organization in accordance with the Diplomatic Immunities and Privileges Act

Accounting for Environmental Levy -

- (a) Invoices
- (b) Return
- (c) Quarterly Payments
- (d) Books and Records
- (e) Offence and Enforcement

Invoices

Manufacturers selling goods to local manufacturers **MUST** include the levy as a line item on their invoices; this will facilitate the claiming of the levy credits. Manufacturers who only sells to non-manufacturers do not have to show the levy as a line item on their invoices.

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Return – Persons Required to File

Every manufacturer who is liable under the proposed Order is required to file an Environmental Levy Return. The return is due quarterly on the last working day of the month following the quarter for which the return is due. The relevant periods for which the returns are due are; three months ending March 31st, June 30th, September 30th, and December 31st. Therefore, returns are due on the last working day of April, July, October and January respectively.

Every manufacturer who is liable under the proposed Order shall, within such prescribed period, furnish to the Commissioner General a return in the prescribed form, whether or not Environmental Levy is due and payable.

Payment – Persons Required to Remit

Every manufacturer who is liable under the legislation who is required to account for the Levy shall pay the amount due and payable by the last working day of the month following the quarter for which the return is due, namely the last day of April, July, October and January respectively. A working day for the purposes of the administration of the Levy is Monday to Friday excluding public holiday.

Manufacturer to keep Books and Records

Every manufacturer who is liable under the legislation shall keep such accounts, books and records as may be prescribed by the relevant tax laws.

Application of Collections, Assessment and Enforcement Provisions of the GCT Act

The relevant sections of the General Consumption Tax to be applied with modifications

Section 37 – Demand for payments

Section 38 – Commissioner General may make assessment

Section 39 –Assessment deemed correct except in proceedings on objection

Section 40 –Registered taxpayer may object to assessment of tax

Section 41 –Appeals.

Section 48 –Application of Tax Collection Act

Section 54 –Penalties relating to registration and change of status, returns, etc.

Section 56 –Offences involving dishonesty

Section 56A – Offence of failure to keep records, etc.

Section 56B – Offences relating to making false or misleading statement

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Illustrations of how the Manufacturing Sector will account for the levy

No. 1

Manufacturer A imports raw materials on which the Levy of \$1,000.00 was imposed. He utilized the raw materials in the production of finished goods which he sold and imposed the Levy of \$1,500.00.

ENVIRONMENTAL LEVY RETURN – EL01

Name of Taxpayer:	TRN:	Period: dd.mm.yyyy	Amount:
Manufacturer A	001-234-567	01.04.2015- 30.06.2015	
Environmental Levy imposed on domestic supplies			1,500.00
Environmental Levy imposed by Customs on:			
Raw materials			1,000.00
Machinery			
Motor Vehicle			
Environmental Levy Payable/(Creditable)			500.00

No. 2

Manufacturer B imports raw materials on which the Levy of \$1,000.00 was imposed. He utilized the raw materials in the production of finished goods which he sold and imposed Environmental Levy of \$1,500.00.

ENVIRONMENTAL LEVY RETURN – EL01

Name of Taxpayer:	TRN:	Period: dd.mm.yyyy	Amount:
Manufacturer B	001-234-567	01.04.2015- 30.06.2015	
Environmental Levy imposed on domestic supplies			1,500.00
Environmental Levy imposed by Customs on:			
Raw materials			1,000.00
		500.00	

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Machinery		
Motor Vehicle	200.00	
Environmental Levy Payable/Creditable		500.00

No. 3

ENVIRONMENTAL LEVY RETURN – EL01

Name of Taxpayer:	TRN:	Period: dd.mm.yyyy	Amount:
Manufacturer A	001-234-567	01.04.2015- 30.06.2015	
Environmental Levy imposed on domestic supplies			1,500.00
Environmental Levy imposed by Customs on:			
Raw materials			2,000.00
Machinery			
Motor Vehicle			
Environmental Levy Payable/(Creditable)			(500.00)

Notes

1. The return is due on the last working day of the month after the end of the quarter.
2. Environmental Levy paid as in illustration No. 2 above, (\$500.00) is claimable as an expense on the income tax return in respect of the year of assessment in which it was paid.
3. The Levy imposed on machinery and equipment (capital goods), spare parts and motor vehicle cannot be set-off as credit against the levy charged on domestic supplies, however, will be deductible as an expense/capital allowance on the income tax return in the year of assessment in which the expense was incurred or over the useful life of the asset.
4. In illustration No. 3 the levy imposed at the ports exceeds the levy on domestic sales resulting in a credit of \$500, this excess will not be refunded but maybe claimed as a credit against their corporate or personal income tax liability.