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THE TAX COLLECTION ACT

THE TAX COLLECTION (WRITE-OFF) REGULATIONS, 2013

In exercise of the power conferred upon the Minister by section 47A(7) of the Tax Collection Act, and every other power hereunto enabling, the following Regulations are hereby made:—

- Citation. 1. These Regulations may be cited as the Tax Collection (Write-off) Regulations, 2013.
- Interpretation. 2. In these Regulations, unless the context otherwise requires—
“debt” means any sum to which section 47A(1)(a) of the Act applies;
“taxpayer” has the meaning assigned to it in section 2 of the Revenue Administration Act.

List for parish
to be prepared
by Collector of
Taxes.

3.—(1) Within one month after the end of each quarter of the Tax Collection Year (as established by section 14(1) of the Act), every Collector of Taxes shall prepare a list of all debts that are outstanding at the end of that quarter in respect of every taxpayer in the parish for which the Collector of Taxes is responsible.

(2) Each list prepared under paragraph (1) shall contain the following information in respect of every taxpayer in the parish for which the Collector of Taxes is responsible—

- (a) the name of the taxpayer;
- (b) the address of the taxpayer's usual place of abode or business;
- (c) the registration number assigned to the taxpayer under section 17D(4) of the *Revenue Administration Act*;
- (d) the amount of the debt;
- (e) the type of tax included in the debt, and any penalty, surcharge or costs included in the debt; and
- (f) a description of efforts made to collect the debt.

Database of
debt.

4.—(1) The Commissioner General shall, from the lists prepared under regulation 3, prepare and maintain a single consolidated database of all debt.

(2) The database shall, in respect of every taxpayer who is indebted, contain the same type of information as is referred to in regulation 3(2).

(3) The Commissioner General shall keep debt that is included in the database under constant review and shall establish and maintain a system for ranking of debt for the purposes of determining its collectability.

Criteria for
determining
collectability.

5.—(1) The Commissioner General shall determine whether any debt is uncollectible in accordance with the criteria set out in sub-paragraph (a) or (b), namely that:

- (a) all reasonable collection action has been taken and all possible means of collection have been exhausted, there is no possibility at any time in the foreseeable future of collection through set-off, and the Commissioner General is satisfied on reasonable grounds that—
 - (i) in the case of an individual taxpayer, the taxpayer is unable to pay the debt, based on consideration by the Commissioner General of the taxpayer's circumstances and the taxpayer's income, expenditure, assets and liabilities;

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- (ii) in the case of a corporate taxpayer, the taxpayer is unable to pay the debt, based on consideration by the Commissioner General of the taxpayer's income, expenditure, assets and liabilities and the income, expenditure, assets and liabilities of any person who exercises control of the taxpayer;
 - (iii) in the case of an individual taxpayer who is deceased, the taxpayer has no known estate or assets;
 - (iv) in the case of a corporate taxpayer that is not carrying on business or in operation, the taxpayer has no remaining assets from which the debt can be collected and there are no remaining directors of the taxpayer from whom the debt can be collected;
 - (v) in the case of a taxpayer who is an un-discharged bankrupt without assets, the trustee has been discharged or has confirmed in writing that the trustee does not foresee any further payments to the Government;
 - (vi) the cost of collection of the debt is not justified in relation to the amount that could reasonably be expected to be recovered;
 - (vii) the Commissioner General has been unable to locate the taxpayer;
 - (viii) the debt has been outstanding for longer than ten years and there is no reasonable possibility of it being collected; or
 - (ix) evidence of the debt has been lost or destroyed;
- (b) the Commissioner General is satisfied on reasonable grounds that collection of the debt is not practicable, and the debt is—
- (i) an amount that was outstanding as at December 31, 2012 and that was required to be deducted by a public body, under regulation 7 of the Income Tax (Employments) Regulations or under section 6 of the Education Tax Act, in respect of emoluments that were payable by the public body to its employees entirely from the Consolidated Fund, or

- (ii) a debt payable by a taxpayer (other than a public body) that was of outstanding as at December 31, 2010.

(2) In considering the ability of an individual taxpayer to pay a debt, the Commissioner General may require the taxpayer to make a statutory declaration as to the income, expenditure, assets and liabilities of the taxpayer.

(3) In considering the ability of a corporate taxpayer to pay a debt, the Commissioner General may require the person who is designated as, or deemed to be, the responsible officer for the taxpayer under section 52 of the Act, to make a statutory declaration as to the income, expenditure, assets and liabilities of the taxpayer and as to the income, expenditure, assets and liabilities of any person who exercises control of the taxpayer.

(4) In this regulation, "public body" means a public body as defined in section 2 of the *Tax Administration Jamaica Act*.

Circumstances in which determination may not be made.

6. The Commissioner General may not make a determination in accordance with the criteria set out in regulation 5 if—

- (a) the debt is the subject of any objection, appeal, investigation or court proceeding, until after that objection, appeal, investigation or court proceeding has been finally disposed of or concluded;
- (b) the debt is subject to adjustment as a result of administrative error or delay on the part of the Commissioner General, until after the matter of any error or delay has been resolved;
- (c) an arrangement has been made with the taxpayer who owes the debt for payment of the debt, unless the taxpayer is in breach of the arrangement.

Information to be provided to Minister.

7. When the Commissioner General, under section 47A(3) of the Act, informs the Minister of a determination that the debt of a taxpayer is uncollectible, the Commissioner General shall also provide the Minister with the following information—

- (a) the name of the taxpayer;
- (b) the address of the taxpayer's usual place of abode or business;
- (c) the registration number assigned to that taxpayer under section 17D(4) of the *Revenue Administration Act*;
- (d) the amount of the debt;
- (e) the type of tax included in the debt, and any penalty, surcharge or costs included in the debt;

(f) a description of efforts that have been made to collect the debt;
and

(g) a description of the grounds on which the Commissioner General
has determined that the debt is uncollectible.

Record and
review of debt
that has been
written-off.

8.—(1) The Commissioner General shall, for a period of twenty years,
keep a record of debt that has been written-off.

(2) The Commissioner General shall periodically review the record
and may pursue recovery of any debt if information comes to the attention of
the Commissioner General indicating that the debt can be recovered.

Dated this 29th day of October, 2013.

PETER PHILLIPS
Minister of Finance and Planning.