

# Focus on Guyana Budget 2021



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# Caveat

Focus on Guyana Budget 2021 is based on the presentation delivered by Dr. Ashni Singh, Senior Minister in the Office of the President with responsibility for Finance in Parliament on 12 February 2021.

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It is not intended to be relied upon for specific tax and/or business advice and as such, users are encouraged to consult with professional advisors on specific matters prior to making any decision.

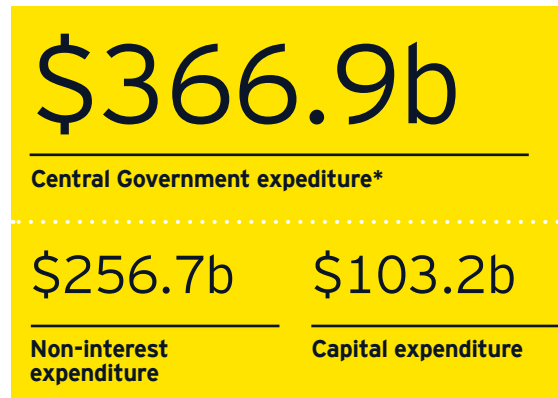
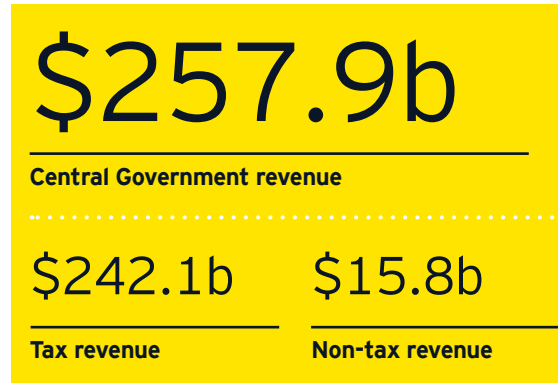
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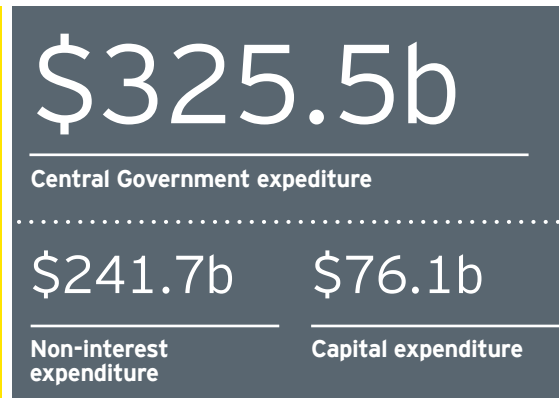
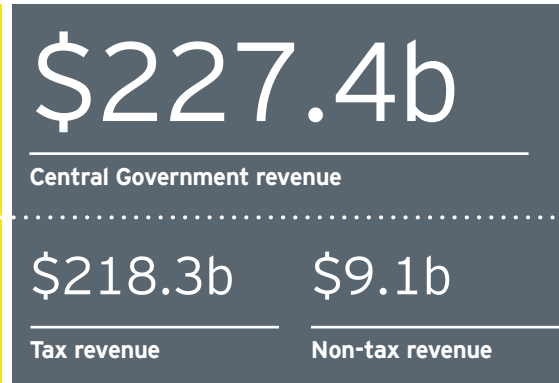
# Budget arithmetic

## PROJECTED FY 2021

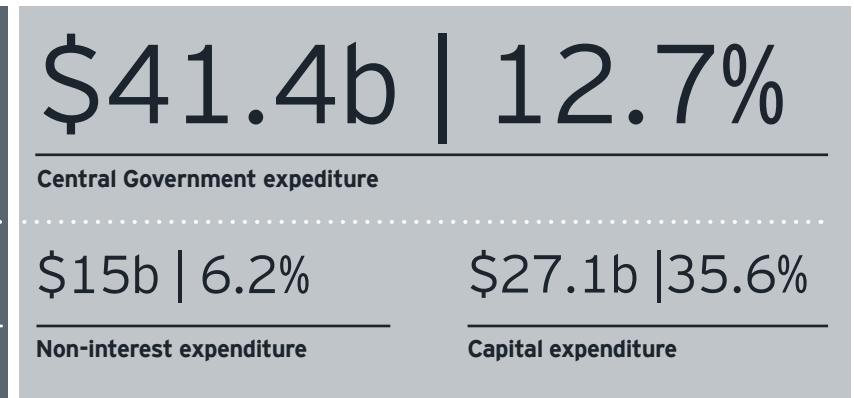
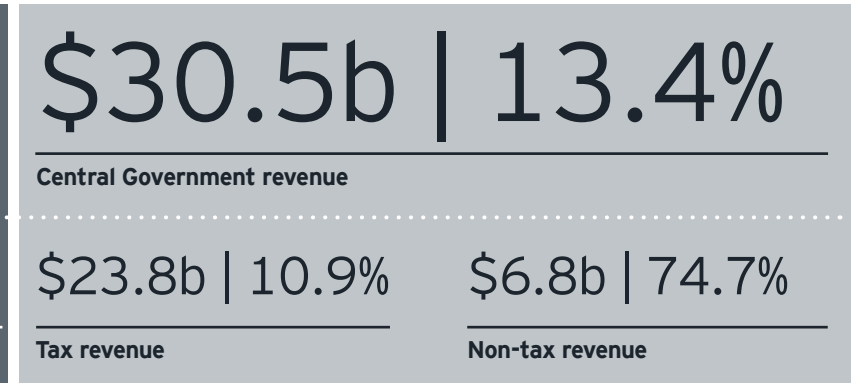


- ▶ Education: **\$60.7 billion** or 15.8% of total budget
- ▶ Health: **\$53.5 billion** or 14% of total budget
- ▶ Infrastructure allocation breakdown is as follows: Energy expansion and diversification **\$3.5 billion**; Roads and bridges **\$25.6 billion**; River and maritime transport **\$310 million**; Air transport **\$3.25 billion**; Sea and river defense **\$5.1 billion**
- ▶ Agriculture: **\$22.6 billion** or 5.9% of total budget
- ▶ Housing: **\$6 billion** or 1.6% of total budget

## FY 2020



## Variance



- ▶ \*The overall size of the Budget 2021 is **\$383.1 billion** which is \$53.5b billion above that of 2020.
- ▶ The overall deficit is projected to be **\$16.2b** or **8.7% of GDP**, compared with 9.4% of GDP for the year 2020.
- ▶ Real GDP is projected to grow by **20.9%** with non-oil economy growing by **6.1%**, a significant reversal of the 7.3% contraction in 2020.
- ▶ The overall balance of payments recorded a surplus of **US\$60.6 million** in 2020, compared to a deficit of US\$48.9 million recorded in 2019.

# Macroeconomic indicators



## Real economic growth

For 2020, Guyana experienced real growth of 43.5%, despite a contraction of non-oil GDP by 7.3%. A lower result was due to initial shocks of COVID-19 pandemic lockdown, restrictions on logistics, and uncertainty amid the prolonged electoral process. Meanwhile, real growth is expected to remain in double-digits for FY21 at 20.9%. The non-oil sector is projected to grow at 6.1% as lockdown measures are gradually phased out.



## Oil production

With first oil achieved in December 2019 from the LIZA-1 well, production has been subdued at approx. 74,300 bpd from the expected 120,000 bpd. The outlook for the oil and gas sector however remains robust as operators and government counterparts advance expanded field development and gas monetization schemes.



## Inflation

The 12-month inflation rate was 0.9% in December 2020, due to the impact of lockdown measures and lower energy prices as markets were buffeted by oversupply and lower energy demand due to the COVID-19 pandemic. As the economy rebounds in 2021, inflation is expected to rise to 1.6%, well within policy norms.



## Monetary policy

Interest rates remained low throughout 2020 as monetary authorities continued expansionary policy. Small savings rate were 0.91%, a decline by 5 basis points y/y in December 2020. Meanwhile, weighted average lending rates declined by 22 basis points to reach 8.96%. Money supply expanded by 13.7% to \$521 billion in 2020 when compared with 2019.



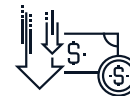
## Exchange rates

The official exchange rate of the GYD to USD remained unchanged at GYD \$208.5 to US\$1.00 in December 2020.



## Natural Resources Fund

The balance in the NRF stands at US\$206 million, of which US\$21.2 million constitutes royalties, and US\$185 million is profit-oil.



## Public debt

Publicly guaranteed debt-to-GDP remain manageable in FY20 at 47.4% despite fiscal overdrafts. The Government of Guyana has increased domestic and external debt ceilings for FY21 to GYD\$500 billion and GYD\$650 billion, respectively. This measure, given strong underlying economic outlook, creates fiscal space for public private sector partnerships in infrastructure projects.



## Export performance

Exports grew by 65.1% in 2020 to US\$2.6 billion due to the introduction of oil and gas and strong performance from the gold industry as prices rallied on the back of strong speculative demand. Exports are expected to maintain this momentum in 2021 at a forecasted growth rate of 46.4%.



## Foreign direct investment

In 2020, Foreign Direct Investment expanded by 7.6% to reach US\$1.8 billion. Authorities project further growth in 2021 to US\$2.1 billion.



## Remittances

Remittances declined by 9.6 percent to US\$631.2 million in 2020, due to the shock of COVID-19 in developed source economies. Authorities expect remittances to further decline in 2021 to US\$538.9 million.

Dr. Ashni Singh, Senior Minister in the Office of the President with responsibility for Finance, presented the 2021 National Budget under the theme *“A Path to Recovery: Economic Dynamism and Resilience”*.

The 2021 Budget was read against the backdrop of the impact of the Covid 19 pandemic and the protracted election process of 2020. The Budget sought to provide a vision for the future involving the transformation of Guyana bringing benefits to individual Guyanese and also identified the steps that will be made in the short term to get there.

Budget 2021 is the largest budget ever in Guyana's history. What is more is that it will be financed with no new taxes, as it is expected that tax revenue collections will equate to approximately 94% of Central Government current revenue with expected increases in collections of withholding tax, Value Added Tax, excise tax and customs duties.

## SUMMARY OF MEASURES

- ▶ Exemption from capital gains tax on the gain arising from the disposal of property more than 25 years after acquisition.
- ▶ Restoration of zero rating of VAT on basic food and household items which were previously treated as standard rated or exempt supplies including basic wheaten flour, basic breads, oats, unflavoured cracker biscuits, cooking oil, locally produced bedsheets and pillowcases and toothbrushes.
- ▶ The following items have been zero rated for VAT purposes:
  - Stone imported for construction and housing from CARICOM - while previously zero-rated for a finite period up to June 2021, the zero-rated status will be extended until further notice
  - Locally produced pre-stressed concrete piles
  - Locally fabricated mild steel beams for building construction
  - Locally manufactured roofing and PVC products for building construction
- ▶ Reduction of import duties on industrial grade cement from 15% to 5%.
- ▶ Commercial banks may make low income housing loans up to a maximum of GYD12M (rather than the previous maximum loan ceiling of GYD10M), while the New Building Society may make loans up to a maximum of GYD15M (rather than the previous maximum loan ceiling of GYD12M).
- ▶ Removal of VAT from data for residential and individual use.
- ▶ The 5% reduction in the water tariffs for all consumers.
- ▶ Removal of duty on All Terrain Vehicles for use in the hinterland.
- ▶ Cash grant of GYD15,000 per child to be given to the parents of children in the nursery, primary and secondary schools in the public school system.
- ▶ Increase of old age pensions from GYD20,500 to GYD25,000 with effect from January 1, 2021.
- ▶ Increase in the public assistance payment from GYD9,000 to GYD12,000 monthly to assist the vulnerable in society.
- ▶ Restoration of zero rating on the importation of goods by budget agencies and in respect of works and services purchased by such agencies.



### **TAX MEASURES – COMMENTARY**

Significantly, there were no new tax impositions announced in Budget 2021. Rather, the tax measures announced aimed to provide relief to local businesses and households that have faced serious financial challenges during the past year.

Prior to 2019, capital gains tax did not apply where the capital gain arose more than 25 years after the date of acquisition of the property disposed. In 2019, however, the exemption from capital gains tax on disposal after 25 years was repealed. The Honorable Senior Minister proposes to reinstate the original position whereby the sale of assets that were owned for more than 25 years will not attract capital gains tax on their disposal. This will certainly assist both households and businesses.

Additional relief was announced as follows:

- ▶ The zero rating of VAT on basic food and household items.
- ▶ The 5% reduction in the water tariffs for all consumers.
- ▶ Cash grant of GYD15,000 per child to be given to the parents of children in the nursery, primary and secondary schools in the public school system.
- ▶ Increase of old age pensions from GYD20,500 to GYD25,000.
- ▶ Increase in the public assistance payment from GYD9,000 to GYD12,000 monthly.
- ▶ Additional assistance has been given to households as VAT will be removed from data for residential and individual use.

The above measures will certainly increase the disposable income of households making life a bit more bearable for some.

Citing home ownership as a means to the economic empowerment of individuals, the Honorable Senior Minister introduced measures to facilitate the lowering of the cost of construction and increase accessibility to financing. In particular, the reduction of import duties on industrial grade cement from 15% to 5% and the zero rating of key construction materials will certainly go a long way in reducing costs of home construction, thereby promoting home ownership. The promotion of home ownership is also facilitated by increasing the ceiling for low income housing loans that may be granted by commercial banks and the New Building Society.

In addition to announcing measures that will go some way in assisting lower income earners and businesses in Guyana, Budget 2021 seeks to transform the economic trajectory for Guyana by leveraging oil winnings to create the environment necessary for propelling all other aspects of the economy. The objective is to do so in a balanced way that would allow all Guyanese to benefit. We have identified below some of the development plans for some of the major sectors and institutions in the Guyana economy.

#### **Oil and Gas Sector**

Budget 2021 highlighted that increased efforts will be made to ensure that there is a robust regulatory framework in place to manage the oil and gas sector. To this end, the Petroleum Act will be amended and the Petroleum Commission Bill will be finalized for enactment. The local content policy will be finalized and will form the basis of local content legislation in Guyana.

In view of the ongoing debate in Guyana regarding the efficacy of the terms of the existing Petroleum Agreements, it is noteworthy that the Government proposes that a revised model Petroleum Sharing Agreement will be developed. Also of note is that the Government will be exploring whether the petroleum fiscal regime should be revised. Therefore, while no new tax measures were announced in Budget 2021, these may be in the offing for the oil and gas sector.

In the interim, the Honorable Senior Minister announced that training will be facilitated within the Guyana Revenue Authority (GRA) with respect to Oil and Gas International Financial Reporting Standards, Cost Recovery Procedures, Computer Assisted Audit Tools and International Taxation. No doubt, this goes hand in hand with the increased level of audit activity seen in 2020. It is expected that this will continue.

#### **Manufacturing and ICT**

The establishment of the Wales Authority was announced with legislation to be drafted during 2021 to make this a reality. The Authority will facilitate the gas to shore project thereby securing low cost energy for various activities including manual, technical, professional and administrative activities as well as agro-processing and manufacturing activities. This will in turn allow for the creation of

several industrial estates that will benefit from tax incentives to spur economic activity. It is left to be seen whether these incentives will be offered under the Income Tax (In Aid of Industry) Act or whether this will be facilitated by means of Free Zone type legislation as exists in other territories.

It is also intended to encourage investment in business process outsourcing through the establishment of call centres in certain areas outside of Georgetown. This would be enhanced by the lowering of internet costs.

### **Other Infrastructural Projects**

Construction of several roads, bridges, expansion of airport and the development of a deep water harbor to act as a transit point for international cargo. These are significant investments, some of which will attract foreign direct investment into Guyana. These are indeed welcomed.

### **GRA**

Budget 2021 also highlighted the focus that will be placed on strengthening the institutions tasked with regulating and monitoring the oil and gas sector, such as the Guyana Geology and Mines Commission and the GRA. For example, the GRA will be pursuing a number of initiatives to improve the delivery of its services.

These include:

- ▶ A comprehensive review of legislation.
- ▶ Implementation of non-intrusive methods of customs examinations.
- ▶ The expansion of e-payment facilities.
- ▶ First phase roll out of the Optimal Software for tax administration.

As regards the roll out of the Optimal Software, it should be noted that the existing e-services technology will be used up to 28 February 2021. Thereafter, no e-services will be available using the existing software. Rather, all e-services would need to be facilitated through the Optimal Software. As a result, early registration for the new Optimal Software by taxpayers should be prioritized to facilitate a smooth transition.

### **Extractive Industries**

Consultations are to begin with stakeholders to allow for the finalization of the amendments to the Mining Act and Regulations. A policy framework for bauxite development will also be considered in 2021. Increased acreage for sand mining will also be identified to support the construction activity that has already commenced along with the increased grant of licenses for quarrying stone.

### **Forestry and Agriculture**

It is intended to make use of funds available under the Forest Partnership Agreement with Norway to restart the Amaila Falls Hydropower Project and other renewable energy projects. These funds will also be used to strengthen the agencies responsible for managing the sector, such as the Guyana Forestry Commission.

There is also intent to shift focus to value added timber products to increase interest in the international markets of Guyanese timber, such as in the European Union and beyond.

In addition, the aim of the Government of Guyana is for Guyana to be the “food basket of the Caribbean”. While this vision has been long touted, implementation seems to be on the horizon with plans to invest in the infrastructural development needed to bring the vision to fruition. New roads will be constructed, irrigation and drainage networks will be expanded and research and development will be undertaken to promote new varieties of crops for sale. Further, investment in agro-processing and packaging facilities will be made and cold storage capacity increased. The diversification into non-traditional crops will also be encouraged.

### **Tourism**

Six hotel projects are expected to commence in 2021 bringing international hotel brands and an additional 1000 hotel rooms to Guyana. Additional investment will be encouraged so that a further 2000 to 3000 hotel rooms will be available in the medium term. Efforts will also be made to establish new air routes to Guyana so as to increase air connectivity and access to Guyana.

# Should digital transformation be on your agenda, or running it?

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The better the question. The better the answer.  
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## ABOUT EY CONSULTING

EY Consulting teams are building a better working world by transforming businesses through the power of people, technology and innovation. We do this by:

- ▶ Putting humans at the center
- ▶ Providing technology at speed
- ▶ Leveraging innovation at scale

Across industries, the diversity and skills of EY consultants are helping businesses to transform successfully, and create long-term value for people, clients and society.

### Business consulting

We work with organizations on their most complex challenges, helping enable confident decisionmaking to help maximize growth, increase business value and maintain trust across ecosystems and markets. With EY leading capabilities and tools in technology and data, EY teams help clients to reshape their businesses, build long-term value and establish trust. We work closely with client teams to architect, design and help deliver detailed transformation, utilizing immersive approaches, such as wavespace™, to drive mindset and behavioral shifts that drive real change.

### Technology consulting

EY has invested US\$1b in new technology solutions, innovation and the EY ecosystem to serve clients better. We believe that the faster companies can apply the right technology, the faster they can meet evolving customer expectations, support and engage employees and create competitive advantages. A focus on long-term value and an experience-led approach to transformation are key.

### People Advisory Services

Technological and operational transformations always require accompanying workforce transformations. As organizations continue to innovate, grow and elevate their business, they need to reimagine the alignment and fit of their organization structure, leadership teams and workforce to create the capabilities needed to drive their strategic and financial objectives. We help organizations through every stage of the employee lifecycle.

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# Digital Utopia – Guyana 2030

The new Government has an opportunity to deliver a bright future for the Guyanese population. Prudent economic practices must be followed when embarking on a period of rapid economic expansion. The scale of the modernization effort is huge, transformative, and unlike any program attempted by a Caribbean nation. It covers all sectors and domains, including healthcare, education, infrastructure, social services, agriculture, digital innovation, and public sector reform; a vast undertaking by any measure.

The development of the non-oil sector through stimulating small businesses and entrepreneurs requires special attention in oil economies. Guyana's ability to train its workforce and integrate them into the new energy economy must be based on realistic policies considering unique sectoral needs.

As the Government devise strategies to implement its vision, embracing technology to streamline activities across agencies can reduce administrative overheads, bureaucratic burdens for stakeholders, and ensure a level of efficiency, and security needed for sectors, such as oil and gas, and social services.

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**As the Government devise strategies to implement its vision, embracing technology to streamline activities across agencies can reduce administrative overheads, bureaucratic burdens for stakeholders, and ensure a level of efficiency, and security needed for sectors, such as oil and gas, and social services.**

This propagates the degree of policy coordination and responsiveness across government to manage diverse risks across emerging and existing sectors.

Government's technological capabilities will be widened to include open-source, cloud computing and big data concepts. Information sharing across government systems and services will be promoted, as will be the re-use of public sector information by third parties.

The digitization of government services also has immense benefits to the users. As users of government services, citizens can realize improvements wellbeing and a higher standard of living. Digital services will be affordable, secure and accessible to all regardless of skill and economic means.

For the private sector, transforming the way businesses are created and operate within a regulatory context will lower the cost of doing business and improve competitiveness. Such a measure is pivotal to boost the attractiveness of non-oil sectors critical for economic diversification and

building resilience. Similarly, such a transformation will promote more start-ups, attract foreign investments, enable strategic alliances, encourage angel investment and nurture niche service providers. Business will be encouraged and supported to exploit the wealth of technological know-how and access to new digital markets for their products.

In this discussion, several themes emerge for Guyana to consider in pursuit of deeper digital integration, in the context of increased economic activity and the structural policy changes required.

## **1. Creating infrastructure and facilitating access to services**

Government, in order to pursue policies that promote the development of a digital economy, may need to engage and incentivize private businesses to help create the necessary infrastructure and enable secure access to services.

For those nations leading the way, such as Estonia – ranked 1st among 193 countries in the UN E-governance index, at more than 99% of government services online, developing a high-speed, reliable and robust digital infrastructure was at the heart of their early work. Governments are increasingly teaming up with private partners to design, build and maintain this infrastructure.

Once the necessary physical infrastructure is in place, governments must develop secure user-authentication systems to help citizens gain easier

access to services through multiple digital channels. New Zealand’s Real Me, an opt-in digital ID system, gives citizens access to a myriad of public and private services, from passport applications, marriage registrations and voting, to opening bank accounts and buying and selling property online.

## 2. Driving transformation and collaboration

Many of today’s frontrunners in digital public services embarked on their transformation journeys because politicians linked the changes to an urgent national reform agenda or need for fundamental structural change. Guyana with its newfound oil wealth, transformative infrastructure agenda, and the need to improve outcomes in social sectors in the context of COVID-19 is not different. Collaboration built on the idea of cross-sector networks that bring together businesses, entrepreneurs, startups, finance companies, academics and civil-society organizations improves rate of adoption and participation.

Citizens also have a major role to play as a source of fresh ideas to reinvigorate the public sector. Many governments have created digital platforms for public consultation on government policies and budget priorities, giving citizens more of a say in the day-to-day decisions that affect their lives.

Some countries have created a centralized digital service or transformation office to lead their efforts.

For example, Estonia has pioneered technology solutions to facilitate seamless data exchange and online interactions with the state. X-Road provides a secure data-exchange platform for card-holding residents to do everything from filing taxes to reviewing medical records and selling cars. Currently, 651 government, municipal and private-sector institutions have their own servers and information systems, all connected by X-Road.

“

Enhancing trust in digital systems is critical to achieving a digital society. People need to feel confident that their data is being used appropriately and stored and shared in a secure manner.

The center of government is crucial in breaking down silos and achieving interoperability of different systems, databases and registers to provide one-stop access to public services.

This kind of vision is needed to ensure cross-departmental and cross-government collaboration, and to avoid over-investment in siloed solutions.

## 3. Setting and enforcing policies, regulations and Standards

Countries that excel at digital innovation have uncovered the real reasons for resistance. Enhancing trust in digital systems is critical to achieving a digital society. People need to feel confident that their data is being used appropriately and stored and shared in a secure manner.

The center of government must set and enforce standards for effective governance of digital information. Digital transformation also requires new regulatory, legal and governance frameworks that allow innovation to flourish while managing potential

risks. Such frameworks are critical to enabling digital-identity management, simplifying transactions, improving data handling, and facilitating data sharing. They must also accommodate rapidly evolving new technologies.

## 4. Securing the right knowledge and talent

Human capital is the largest bottleneck to successfully meeting the objectives of transformation programs, as many current staff are not trained on new systems, and recruiting top talent proves challenging. Preparing the pipeline of talent needed to continuously support and expand digital services is a critical element.

### EY’s Perspective

Public sector leaders recognize the value of transformation to improve outdated processes, address citizen expectations, and save taxpayer dollars. They also fully understand how difficult it is to implement change. Some of the most significant challenges to transformation result from decisions made long before a program begins. Communicating the value of the program, building workable governance models, assigning program roles and responsibilities across the agency, and building performance models aligned with agency strategy are among the key activities that can make or break transformation success. EY stands ready to assist in any or all of these initiatives.



**Dillon Clarke**  
Senior Manager, Consulting

# Proposed tax rates for income year 2021

## CORPORATE TAX

### Corporate tax rates

▶ Telephone company .....	45%
▶ Commercial company <sup>1</sup> .....	40% <sup>2</sup>
▶ Non-commercial company <sup>3</sup> .....	25%
▶ Investment company .....	Exempt
▶ Capital gains tax rate .....	20% <sup>4</sup>

### Withholding tax rates

#### Payments to non-residents

▶ Interest .....	20%
▶ Royalties .....	20%
▶ Rents .....	20%
▶ Management charges or charges for personal services and technical managerial skills .....	20%
▶ Premiums, commissions, fee or licences .....	20%
▶ Discounts, annuities or other annual or periodic payments .....	20%

Dividends and distributions .....

Branch profits remittance .....

#### Payments to residents

▶ Inter-company distributions .....

<sup>1</sup> A commercial company is a company where at least 75% of its gross income is derived from trading in goods not manufactured by it and is defined to include commission agencies, banks and insurance companies carrying on insurance business other than long term insurance business.

<sup>2</sup> Where 40% of chargeable income is less than 2% of turnover, the commercial company would be required to pay up front corporation tax at the rate of 2% of turnover (referred to as 'minimum tax'). Where the Guyana Revenue Authority (GRA) is satisfied with the company's calculation of chargeable income, the GRA would allow the company's tax liability to be limited to 40% of chargeable income and any excess minimum tax paid may be carried forward and offset against future corporation tax liabilities with certain restrictions.

<sup>3</sup> Any company that does not fall within the definition of commercial company would be regarded as a non-commercial company, including manufacturers and service companies.

<sup>4</sup> In the case of capital gains arising within a period of 12 months, such chargeable gains shall form part of chargeable income subject to corporation tax. Moreover, gains from the disposal of assets after 25 years would not be subject to capital gains tax.

### Net operating losses (years)

▶ Carry back .....	Not Applicable
▶ Carry forward (corporation tax) .....	Unlimited <sup>5</sup>
▶ Carry forward (capital gains tax) .....	24 years

## CAPITAL ALLOWANCES

### Petroleum sector

▶ Petroleum capital expenditure .....

### Diamond and gold mining sector

▶ Exploration and development expenditure .....

### Other sectors

Asset .....	Rate <sup>6</sup>
▶ Aircraft .....	33.3%
▶ Boats .....	10%
▶ Buildings (housing machinery) .....	5% on cost
▶ Buildings used for providing services and warehousing .....	2% on cost
▶ Furniture and fittings .....	10%
▶ Motor vehicles .....	20%
▶ Electronic office equipment .....	50%
▶ Other office equipment .....	15%
▶ Plant and machinery .....	20%

▶ New equipment for industries harnessing alternate energy through wind, solar, water and biomass technologies ..... capital expenses to be written off within two years

<sup>5</sup> The loss to be set off in future years may not exceed 50% of the amount of tax payable had the set off not occurred. This limitation does not apply to petroleum operations.

<sup>6</sup> Allowances may be claimed on a reducing balance basis or straight line basis. Where the latter basis is applied, allowances are limited to 90% of the cost of the asset.



### VALUE ADDED TAX

- ▶ Supply and import of most goods and services ..... 14%
- ▶ Supply of financial services ..... Exempt
- ▶ Rental of residential property ..... Exempt
- ▶ Essential food items ..... 0%
- ▶ Exports of goods ..... 0%
- ▶ Certain supplies of services to non-residents ..... 0%

### PROPERTY TAX RATES – COMPANIES AND INDIVIDUALS

#### Net property value

- ▶ On the first GYD 40m of net property ..... Nil
- ▶ For every dollar of the next GYD 20m of net property ..... 0.5%
- ▶ For every dollar of the remainder of net property ..... 0.75%

### INCOME TAX RATES – INDIVIDUALS

- |                                       |      |
|---------------------------------------|------|
| Band of Taxable Income (GYD).....     | Rate |
| ▶ Taxable income up to 1,560,000..... | 28%  |
| ▶ 1,560,001 and over .....            | 40%  |

#### Personal allowances

Basic deduction – greater of \$780,000 or one third of total income from all sources excluding income subjected to withholding taxes

- ▶ Mortgage interest ..... 100% of interest paid (conditions apply)
- ▶ Employee NIS contributions ..... 100%

#### Employee national insurance contributions

National insurance contributions (% of maximum insurable earnings of GYD \$280,000 per month)

National Insurance	Employee (%)	Employer (%)	Total (%)
Employed persons	5.6	8.4	14
Self-employed persons	–	–	12.5



# Status of fiscal measures Budget Statement 2020



PROPOSED MEASURES	IMPLICATIONS	STATUS
<b>EXEMPTION FROM CORPORATION TAX</b>	Commencing income year 2020, private corporate education institutions and private corporate medical health care institutions became exempt from corporation tax.	Enacted in the Corporation Tax (Amendment) Act 2020
<b>TAX CONCESSIONS FOR NEW ECONOMIC ACTIVITY</b>	The fields of new economic activity that may be granted an exemption from corporation tax where the activity demonstrably creates new employment were expanded to include traditional agricultural development and cold storage and packaging.	Enacted in the Income Tax (In Aid of Industry) (Amendment) Order 2020
<b>MORTGAGE INTEREST RELIEF</b>	Mortgage interest relief was increased from GYD 15m to GYD 30m for resident first-time homeowners eligible to receive a tax deduction for interest payable on mortgages.	Enacted in the Income Tax (Amendment) Act 2020
<b>VALUE-ADDED TAX</b>	<p>Value-Added Tax (VAT) was removed from the following supplies:</p> <ul style="list-style-type: none"> <li>▶ Cellular phones</li> <li>▶ Goods and services in agro-processing facilities, cold storage and packaging</li> <li>▶ Certain medical supplies</li> <li>▶ Electricity and water (previously, VAT applied on a supply of electricity and water above a monthly threshold of GYD 10,000 and GYD 1,500, respectively)</li> <li>▶ Capital equipment and machinery used in the mining, forestry, agriculture and manufacturing industries</li> <li>▶ Hinterland travel</li> </ul> <p>The following exempt supplies were re-classified as zero-rated supplies, allowing for the recovery of input VAT incurred:</p> <ul style="list-style-type: none"> <li>▶ Uncooked bird's eggs, hatching eggs, uncooked fresh, chilled and frozen chicken, baby chicks and live chicken</li> <li>▶ Key inputs in the poultry industry</li> <li>▶ Fertilizers, agro-chemicals and pesticides</li> <li>▶ All-terrain vehicles for use in the mining, forestry, agriculture and manufacturing industries and by Toshias from Amerindian communities</li> <li>▶ Locally produced sand, stones, concrete blocks, plywood, logs and lumber of a type and quality used in construction and housing</li> <li>▶ Certain medical services and supplies</li> </ul>	<p>Enacted in:</p> <ul style="list-style-type: none"> <li>▶ the Value-Added Tax (Amendment of Schedules I and II) Order 2020</li> <li>▶ the Value-Added Tax (Amendment) Regulations 2020</li> </ul>

PROPOSED MEASURES	IMPLICATIONS	STATUS
<b>REDUCTION OF LICENSE FEES</b>	<ul style="list-style-type: none"> <li>▶ Various license fees which were increased after the year 2014 were reduced by as much as 50% of the previously increased amounts.</li> <li>▶ Removal of requirement to register and obtain a road license for mining equipment</li> </ul>	<p>Enacted in:</p> <ul style="list-style-type: none"> <li>▶ the Tax (Amendment) Act 2020</li> <li>▶ the Hucksters Licensing and Control (Amendment) Act 2020</li> <li>▶ the Auctioneers (Amendment) Act 2020</li> <li>▶ the Miscellaneous Licenses (Amendment) Act 2020</li> <li>▶ the Intoxicating Liquor Licensing (Amendment) Act 2020</li> <li>▶ Motor Vehicles and Road Traffic (Amendment of First Schedule) Regulations 2020</li> <li>▶ The Motor Vehicles and Road Traffic (Amendment) Act 2020</li> </ul>
<b>EXEMPTION FROM CUSTOMS DUTIES</b>	Subject to determination by the Commissioner-General of the Guyana Revenue Authority, the importation of items for use in agro-processing facilities, cold storage and packaging have been exempt from Customs Duties.	Enacted in the Customs (Amendment of First Schedule) Order 2020
<b>REVERSAL OF RESTRICTION ON IMPORTS</b>	The ban on the importation of used tyres, half-cut vehicles and vehicles over eight years old has been removed.	Enacted in the Customs (Amendment of Second Schedule) Order 2020
<b>MISCELLANEOUS MEASURES</b>	<ul style="list-style-type: none"> <li>▶ Removal of police clearance requirement for miners to transport fuel in their own vehicles.</li> <li>▶ Timber dealers and sawmillers licensed with the Guyana Forestry Commission are permitted to export logs, regardless of whether they were granted a concession.</li> <li>▶ Reversal of land lease fees for all sectors to 2014 rates.</li> <li>▶ Reversal of water charges, land taxes and drainage and irrigation charges applicable to the agricultural sector to 2014 rates.</li> </ul>	Policies and directives to effect these measures have been implemented.



# The Tax Dispute Resolution Process: options available

In recently marking the 21st anniversary of its establishment, the GRA highlighted its continuing efforts in increasing revenue collection through efficient tax administration. Indeed, this can be seen in the increased level of audit activity conducted by the audit functionaries of the GRA. While this increased activity has no doubt given rise to some level of disagreement between the taxpayer and the GRA, it has in turn brought the tax dispute process into focus.

This article is intended to make our clients more acutely aware of the tax dispute process and the options available thereunder.

Depending on the specific circumstances, there are primarily two routes taxpayers can take to facilitate an acceptable resolution of their dispute with the GRA:

- I. The Tax Appeal
- II. Judicial Review

## I. THE TAX APPEAL

As a principle sanctioned by the various courts of law, tax litigation should always be the last resort. The parties should first attempt to determine the matter through the tax appeal mechanism provided under the Income Tax Act (ITA). There are two options for making a tax appeal under the ITA as described below.

### Objection

Pursuant to Section 78 of the ITA, the taxpayer may dispute an assessment made by the GRA by filing a Notice of Objection (Objection) with the GRA within 15 days<sup>1</sup>.

If dissatisfied with the GRA's decision on the determination of an Objection, the taxpayer may either:

- ▶ Appeal to the Board of Review (BOR), or
- ▶ Appeal directly to a judge in the High Court of the Supreme Court of Judicature of Guyana (Appeal to a judge in the High Court).

### Appeal to the Board of Review

A taxpayer may appeal to the BOR by Notice of Appeal pursuant to Section 82 of the ITA. The BOR is an independent administrative body consisting of 3 to 5 persons who are not employed in the public service. Members of the BOR are appointed by the President.

On making an appeal to the BOR, one-third<sup>2</sup> of the tax in dispute must be deposited with the GRA. Where, however, the requirement to deposit one-third of the tax in dispute would cause hardship to the taxpayer, the taxpayer may apply to the GRA to lodge a bond or guarantee equal to one-third of the tax in dispute.

If dissatisfied with the decision of the BOR, the taxpayer may appeal to a judge in the High Court.

### Appeal to a judge in the High Court

Prior to initiating an appeal to a judge in the High Court, the taxpayer must give notice in writing to the GRA within 30 days from the date of the refusal of the GRA to amend the assessment as desired or within 30 days<sup>3</sup> after the date of the decision of the BOR, as the case may be. In addition, the whole amount of the tax in dispute must be deposited with the GRA or a bond or guarantee must be lodged.

### Court of Appeal/Caribbean Court of Justice

If dissatisfied with the decision of the judge in the High Court, the taxpayer may appeal the decision of the judge to the Court of Appeal of the Supreme Court of Judicature in Guyana (Court of Appeal), bearing in mind that the decision of the judge on any question of fact is final and an appeal lies to the Court of Appeal only on a question of law. If dissatisfied with the decision of the Court of Appeal, either party may appeal the matter further to the Caribbean Court of Justice.

Throughout the tax appeal process, the onus of proof is on the taxpayer, the standard of proof being on a balance of probabilities in accordance with proceedings for a civil suit.

### II. JUDICIAL REVIEW

Where the issue falls outside the assessment/objection conveyor belt, it would be fitting for the taxpayer to pursue litigation through the process of Judicial Review. Specifically, Section 3(1) of the Judicial Review Act (JR Act) provides that an application for judicial review for relief against an administrative act or omission can be made to the High Court in accordance with the JR Act and Civil Proceeding Rules 2016, as amended (Rules of Court).

Moreover, an application for judicial review can be made simultaneous to engaging in the tax appeal process provided under the ITA.

The common grounds by which an application for judicial review is made are as follows, where the GRA:

- ▶ reached a decision which is unreasonable, irregular or an improper exercise of its discretion;
- ▶ abused its power;
- ▶ committed fraud;
- ▶ acted in bad faith, for improper purposes or made an irrelevant consideration;
- ▶ acted in absence of evidence on which a finding of fact could reasonably be based; and
- ▶ failed to satisfy or observe conditions or procedures required by the Constitution of Guyana.

### CONCLUDING THOUGHTS

As can be readily discerned, the tax dispute process can be a protracted one. During this period of seeming uncertainty, a taxpayer is faced with not only the prospect of having to pay over the taxes assessed, but also potentially onerous penalties and interest.

In the circumstances, taxpayers would be well served by contacting us early in the process so that steps can be taken to mitigate an adverse assessment and/or advise on the appropriate option to bring their dispute to a satisfactory and efficient conclusion.

#### NOTES

<sup>1</sup> The time limit for objecting to an assessment of Value-Added Tax (VAT) is 20 days.

<sup>2</sup> The prerequisite deposit of tax applicable for appealing to the VAT BOR is two-thirds of the tax in dispute.

<sup>3</sup> If dissatisfied with the decision of the VAT BOR, an appeal can be made to a judge in the High Court within 20 days of being notified of the decision of the VAT BOR. For disputing an assessment of VAT, the option of appealing to a judge in the High Court only becomes available after the options for Objection and appealing to the VAT BOR have been exhausted.



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- ▶ Corporate secretarial services

700+



People

50



Partners and  
Executive Directors

8



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- ▶ Tax structuring
- ▶ Identification of post-transactional tax reduction options

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An aerial night view of a large industrial refinery or chemical plant. The facility is illuminated with numerous lights, showing a complex network of pipes, towers, and storage tanks. In the foreground, a large ship is docked at a pier, also lit up. The background shows a city skyline at night with lights from buildings and streets.

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