

A worker in an orange jumpsuit and white hard hat is seen from behind, working on a metal structure over water. The structure consists of large, dark, rusted pipes and a yellow metal grate. The water below is dark blue with ripples. A yellow diagonal shape is overlaid on the top left of the image, containing the text.

Focus on Trinidad and Tobago Budget 2021

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Caveat

Focus on Trinidad & Tobago Budget 2021 is based on the Budget Statement delivered by the Minister of Finance, the Honourable Mr. Colm Imbert, in Parliament on 5 October 2020.

This review was prepared by EY Trinidad and is intended for the benefit of our clients and associates as a general guide. Readers are encouraged to consult with professional advisors for advice concerning specific legal, accounting or tax matters before making any decision.

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5 October 2020

The Dilemma of the Paternal State

Recently, a noted economic analyst penned a thought leadership article citing an energy major's overhaul of its oil and gas business and pivot to investment in renewable energy and power markets. Implicit in this seismic shift in strategic direction is a growing recognition of a significant reduction in estimated long-term oil and natural gas prices.

Given this reality, the State can no longer afford to act as the main catalyst in the economy and subsidize individuals and businesses alike with below market fuel, electricity, water, healthcare and education. Neither can we continue to afford to engage in transfers to unsustainable state-owned businesses. Rather, there is a need to radically re-think the role of the State and the private sector in the future of Trinidad & Tobago and to implement a more market-oriented approach to the development of the Nation.

There are many social, political and economic success factors that ought to be collectively pursued by all stakeholders as we embrace the change required. We have chosen to focus on our top four macro-economic initiatives:

▶ **Fix energy first** – The reality of the energy ecosystem in T&T is that gas supply is tight, the upstreamers are expecting a higher return on investment on riskier deep-water investments, NGC expects to enjoy its margin as the aggregator and our downstream producers are at the receiving end of uncompetitively

priced natural gas feedstock. The status quo is unsustainable and without intervention will likely result in the T&T methanol and ammonia complex (once the pride of the Nation) being relegated to the realm of swing

producers. Our LNG plants are also experiencing related challenges because of the country being fundamentally short of natural gas in the short term. The solution requires compromise and open and transparent negotiations across the value chain and can be attained through active leadership and involvement at the highest levels of Government.

▶ **Incentivize new investment and job creation** – It is the job of the Government to create an environment conducive to risk taking and investment and the

role of the private sector to lead the country in terms of capital investment and job creation. T&T's private sector leadership in banking, insurance, manufacturing and distribution in the region, combined with the excess liquidity in the financial system is a national asset to be leveraged. To complement this strategy, major institutional reform needs to occur to ensure T&T increases its global competitiveness in terms of ease of doing business, including fast tracked approval processes.

▶ **Institutional strengthening and digitization** – Given the paradigm shift in energy, we ought to implement and execute a plan to wean ourselves off of transfers and subsidies and instead access international lending agencies, the financial markets and our Heritage and Stabilization Fund to make longer term capital investments in building institutional capacity with the objective of providing less costly, more performance oriented and effective Government services. This can include the rationalization of Government ministries and statutory bodies, shared services and investments in digital Government. In this regard, the much-touted Revenue Authority is not a panacea and will likely not meet expectations without a focus on HR systems, digital processes, change management and, above all, more customer centricity.

“
Rather, there is a need to radically re-think the role of the State and the private sector in the future of Trinidad & Tobago and to implement a more market-oriented approach to the development of the Nation.”

► **Privatization of state assets and PPPS** – There was perhaps a time in the historical evolution of T&T where state involvement in business was imperative to kick start certain important sectors and to provide essential services. Given the evolution of the regional private sector and global financial markets, it is entirely possible for the country to divest itself of state assets and maintain significant long-term benefits to its citizens. Certain fundamental principles can ensure this. One, the system of divestment ought to be transparent. Two, it must be competitive. Three, it should, where feasible, involve a stipulation that a certain percentage of shares be made available to the public via the TTSE or other similar mechanisms. The upside of a planned divestment strategy, when properly implemented is that the State:

- Can utilize the proceeds of sale to pay down debt which will redound to the benefit of future generations.
- Yield at least a 30% return (standard rate) on profits generated in the form of taxation.
- Ensure that its citizens get to participate in the future cash flows of these businesses via the capital markets.
- Utilize fair trading legislation, market dynamics, and competition to ensure the population obtains better services.

In similar fashion, given the liquidity in the financial system and the strength of the financial services sector, opportunities abound to enable the Government to partner with private capital

to embark on vital infrastructure development without shouldering the implementation risks and financial burden.

Given the above imperatives, we believe the various aspects of the Honourable Minister's 2021 Budget Statement struck the appropriate tone. Implicit in the Minister's presentation was a recognition of energy transition and the need for deeper collaboration between the Government and the private sector through PPPs and the privatization of state assets, such as the management of the Sea Port. Of relevance was also the Honourable Minister's announced withdrawal of state subsidies for fuel through the implementation of a more market-oriented pricing mechanism and the privatization of petrol stations.

We also laud the empathy demonstrated to the plight of the working population as demonstrated by the increases in personal allowance and stamp duty reductions for first-time homeowners and believe both measures would have the added benefit of stimulating the economy. Additionally, the business sector ought to be attracted by the incentivization of small energy producers, the enactment of Special Economic Zone legislation, increased capital allowances for investment in plant and equipment for manufacturers, enhanced benefits under the junior stock exchange, property development tax benefits and special incentives for investment in technology.

Perhaps as important and encouraging was the Honourable Minister's ownership of the need for dramatic improvement in ease of doing business, digitally enhanced government service and better business facilitation. A properly developed public-

sector transformation plan coupled with measurable targets and leadership and accountability at the highest level of Government would be critical to ensuring the announced measures produce their desired outcomes. Nonetheless, one is struck by the Government's commitment to an enhanced partnership between the State and the private sector and this gives us hope that our Nation is finally ready to reinvent itself and embrace the challenges and opportunities that lie ahead.

We eagerly await the expedient implementation of these initiatives and stand ready to assist in the successful execution thereof, as we collectively work towards transforming the economic landscape and fortunes of Trinidad & Tobago.



Wade George
Executive Chairman, EYC



Gregory Hannays
Partner, Tax Services

Budget arithmetic



¹ The fiscal deficit was \$16.772b or 11% of GDP for fiscal year 2020

Macro economic indicators

Extracts from the Economics Bulletin July 2020 – Central Bank of Trinidad & Tobago



Headline inflation measured 0.4% year-on-year (y-o-y) in March 2020, unchanged from January 2020.



Central Government operations registered an Overall Deficit of \$10.7 billion during the first nine months of the fiscal year 2019/20, larger than the deficit of \$4.8 billion recorded in the corresponding period of the prior year.



At the end of August 2020, gross official reserves amounted to US\$7,442.4 million (8.8 months of import cover), which was US\$513.4 million higher than the end of 2019, boosted by drawdowns from the HSF and proceeds from Central Government borrowings.

At June 2020, the Net Asset Value of the HSF fell to US\$5.82 billion from US\$6.26 billion at the end of September 2019.



CBTT's net sales of foreign exchange to the public from January to August 2020 amounted to US\$758.9 million, declining by 35% compared to the same period last year.



The benchmark West Texas Intermediate (WTI) oil price fell 33.3% y-o-y to an average of US\$38.05 per barrel over the first eight months of 2020. Henry Hub natural gas price declined by 29.1% y-o-y to average US\$1.86 per million British Thermal units (mmbtu) over the same period.



Natural Gas Production declined by 6.1% y-o-y compared to the second quarter of 2019.



Crude Oil Production fell by 5.7% y-o-y to average 55,945.3 barrels per day in the second quarter of 2020.



Liquefied Natural Gas (LNG) production fell by 2.3% and Natural Gas Liquids (NGLs) output fell by 9.1%.



Petrochemical Output declined by 10.9% y-o-y during the second quarter of 2020, with Methanol suffering the largest decrease of 25.1% and Ammonia production up 2.4%.



As at July 2020, Net Public Sector Debt increased to \$120.5 billion or 71.7% of Gross Domestic Product (GDP) from \$103.2 billion or 62.2% of GDP in September 2019. It now stands at 80%.



The Central Bank maintained the Repo Rate at 3.50% in June 2020, following a 150 basis point reduction in March.



Daily average of Excess Liquidity stood at \$7,307.4 million over the first eight months of 2020 compared to \$3,379.8 million for the same period in 2019.

ENERGY SECTOR



The Energy Commodity Price Index (ECPI), which is an indicator of the average prices of T&T's energy exports, declined 30.1% y-o-y during the first eight months of 2020.

Fiscal measures

PROPERTY TAX

As was widely expected, the Minister announced in his Budget Statement the Government's intention to bring the Property Tax regime into effect during the 2021 Fiscal Year, at rates that would be "fair and reasonable and will not present an onerous burden" on taxpayers, first starting with residential properties and then proceeding to commercial, industrial and agricultural properties, in that order.

The Property Tax Act, 2009 (PTA) and the Valuation of Land (Amendment) Act, 2009 were both assented by the President on 31 December 2009 and were expected to come into operation on 1 January 2010, replacing the prior Land and Building Taxes Regime. There has, however, been a moratorium on this tax since its inception.

As it currently stands, Property Tax is chargeable on the Annual Tax Value (ATV) of different categories of property, at the relevant prescribed rates.

It is calculated by multiplying the Annual Tax Value (i.e. the tax base) by the relevant rate of tax.

Property Class	Rate of Tax	Annual Tax Value	Annual Tax Value (vacant land)
Residential	3%	ATV= 90% of the annual rental income expected to be earned from such property as determined by the Commissioner of Valuations under the provisions of the Valuation of Land Act.	ATV= 3.5% of the capital value of the property, less any applicable deductions and allowances.
Commercial	5%	ATV= 90% of the annual rental income expected to be earned from such property.	ATV= 5% of the capital value of the property, less any applicable deductions and allowances.
Industrial	Plant and machinery housed in a building	6%	ATV= calculated as the value of the plant and machinery that is housed in a building, less any applicable allowances and deductions.
	Plant and machinery not housed in a building	3%	ATV= calculated as the value of the plant and machinery that is not housed in a building, less any applicable allowances and deductions.
Agricultural	1%	ATV= 2% of the open market capital value of the land/property.	2% of the open market capital value of the land and any agricultural buildings thereon.

The Valuation of Land (Amendment) Act, 2018, provides that where the Commissioner of Valuations is of the view that more than 50% of all land has been valued and that the valuations should take effect, he shall notify the Minister of Finance who may then issue an Order declaring that the valuations are in effect.

To this end, the Minister announced that in the near future, the Commissioner of Valuations, will be making mandatory requests to property owners under Section 29 of the Valuation of Land Act, 2009, for the provision of information (possibly online) so that the Valuation Roll can reach the threshold necessary to implement the tax.

One of the most pressing issues is how the ATV for properties will be determined for each class. While the valuations for each property class are yet to be finalized, the class that provides the most uncertainty is industrial property (i.e. the value for plant and machinery). Given that the ATV is an intrinsic part of the computation of the tax, it is hoped that the Government will introduce guidance (legislative or formal policy) to provide clarity to taxpayers.

REVENUE AUTHORITY

The Honourable Minister signaled Government's intention to have the Trinidad & Tobago Revenue Authority operational in 2021.

Under the Revenue Authority model, the responsibility for the collection of taxes and duties is placed in the hands of an entity not governed by Civil Service Regulations. Under the oversight of a Board of Management, with a degree of autonomy, the Revenue Authority will be empowered to develop its own human resource policies, including appropriate compensation packages and financial management regimes. The proponents of the Revenue Authority model (including the IMF and World Bank) argue that the model results in improved revenues, greater efficiency and better customer service.

The Honourable Minister stated that the establishment of the Revenue Authority is expected to bring significant improvements in tax collection, thereby reducing the tax gap (i.e. the deficiency in tax collections) by as much as \$5 billion per year.

There are, however, certain issues surrounding the Revenue Authority that should be addressed by the Government in order to ensure that there is the necessary "buy-in" from all the relevant stakeholders:

- a. A critical issue is the question of the migration of personnel from the Board of Inland Revenue (BIR) to the Revenue Authority. One may reasonably ask whether the anticipated improvements in efficiency and service can actually be achieved if the current staff of the BIR is simply transferred over to the Revenue Authority.
- b. A related question is whether consideration would be given to the recruitment of qualified and experienced non-nationals in order to raise the level of expertise in the Revenue Authority.

- c. Implementation of an appropriate Performance Management System would also be critical to the success of the Revenue Authority.
- d. In order to ensure the timely settlement of tax refunds thereby improving the overall customer experience, would the Revenue Authority be given sufficient autonomy over the taxes it collects so as to be able to issue refunds on its own volition?
- e. Crucially, taxpayers would need to be confident that there are sufficient safeguards in place to prevent any possibility of political interference in the operations of the Revenue Authority. Further, the Board of Management of the Revenue Authority should be provided the necessary independence in formulating the strategic policies of the Revenue Authority.

We note that as far back as October 2002, some 18 years ago, the then Prime Minister and Minister of Finance, the Honourable Patrick Manning, in delivering his Budget Statement, stated that a proposal for the establishment of a Revenue Authority was before the Cabinet. Notwithstanding this, such proposal remains unimplemented after almost two decades. Twice before, Bills have been introduced in Parliament with a view to the establishing the Revenue Authority with the following results:

- ▶ The Trinidad & Tobago Revenue Authority Bill, 2010 was allowed to lapse in April 2010 since it failed to attain the required three-fifths majority in the Senate.
- ▶ Earlier this year, the Trinidad & Tobago Revenue Authority Bill, 2019 was passed in the Senate with the requisite three-fifths majority, having gained the support of the Independent Senators. The Bill, however, lapsed since Government did not have the necessary three-fifths majority in the House of Representatives and the Opposition declined to support the legislation.

Since Government still does not have a three-fifths majority in the House of Representatives, the prospects of enacting the relevant legislation remain to be seen. In the absence of the support of the Opposition, it is likely that the Bill will have to be amended to remove the requirement of a three-fifths majority in order to ensure its passage in Parliament.

In closing, we should always bear in mind that despite the hopes of the Government, a Revenue Authority is no "quick-fix" or panacea to the country's tax administration problems. It is not a solution but simply a tool to enable Government to better address specific problems.

Finally, we wish to emphasize that the success of the Revenue Authority will, to a considerable extent, depend on taxpayers embracing their civic responsibilities by complying with their tax obligations.

SMALL AND MEDIUM ENTERPRISES STOCK MARKET

The Honourable Minister announced further incentives for Small and Medium Enterprises (SMEs) that list on the Junior Stock Exchange. The purpose of the incentive is to facilitate greater access to equity funding for such enterprises.

The Minister proposed certain tax breaks, as set out below, which are expected to take effect from 1 January 2021:

Current Legislation	Proposed Legislation
Rate of tax is 10% for the first five years from listing on the Trinidad & Tobago Stock Exchange.	Full tax holiday for five years following the listing on the Trinidad & Tobago Stock Exchange.
Thereafter, the rate applicable shall be the standard rate of Corporation Tax.	A 50% tax holiday for the second five years following listing on the TTSE. Standard rate of tax thereafter.

The Minister further stated that upon expiry of the said tax breaks, the SMEs would have grown into larger entities thereby contributing more to Government revenues than they would have, had they not received the financing they needed at an earlier stage in their life cycle.

It should be noted that for an SME to qualify for the incentive under the taxation legislation, the enterprise must:

- ▶ Have a minimum capital after raising funds on the Junior Market of over TT\$5 million and not greater than TT\$50 million.
- ▶ Have a minimum and maximum capital base comprising of issued share capital only, not including retained earnings and reserves.
- ▶ Have a minimum of 25 unconnected shareholders, who must own a total of at least 30% of the new issued share capital of the company.
- ▶ Raise capital by way of an issuance of an initial public offering, which is to be followed by a listing on the Trinidad & Tobago Stock Exchange no more than 60 days after the allotment of the issue.

WEAR AND TEAR ALLOWANCES

The Honourable Minister announced an increase in the rate of wear and tear allowances on plant and equipment from 25% to 30% with effect from 1 January 2021.

For the purposes of claiming wear and tear allowances, plant and machinery are placed in the appropriate class in the Seventh Schedule to the Income Tax Act, which prescribes the applicable wear and tear rate. The wear and tear rates range from 10% (Class A) to 40% (Class D). Most plant and machinery, however, are currently placed in Class B of the Seventh Schedule which provides for a 25% wear and tear rate. It is not clear, however, whether the 30% rate would apply to all plant and machinery currently listed in Class B or to a subset of such assets.

We would also note that manufacturers are currently entitled to an Initial Allowance of 90% in addition to the wear and tear allowance of 25%. Where the asset is put into use in the year that it is acquired, the expenditure may be fully written-off in such year so that the increase in the wear and tear allowance to 30% would confer no additional benefit to manufacturers.

We further note that there are taxpayers whose 2021 year of income would straddle both 2020 and 2021. The question arises as to whether plant and machinery acquired during the 2021 year of income but prior to 1 January 2021 would qualify for the 30% wear and tear rate.

TAX INCENTIVES FOR THE CONSTRUCTION SECTOR

The Honourable Minister has announced that over the next two years, the Government intends to incentivize the construction sector through fiscal incentives being granted to approved development projects in relation to housing developments, as well as commercial and industrial developments.

Property Development Allowance

Section 16 of the Corporation Tax Act currently provides that in computing its chargeable profits, an approved development company shall be allowed to deduct an amount equal to 15% of any capital expenditure incurred by that company in the construction of a building that is used for commercial or industrial purposes by the company or a purchaser or lessee thereof where the construction of the building is proved to the satisfaction of the Board of Inland Revenue to have commenced:

- a. Before 31 December 2005 and is completed on or before 31 December 2007; or
- b. On or after 1 January 2008 and is completed on or before 31 December 2014.

The Minister has proposed amending the Corporation Tax Act to increase the aforementioned deduction from 15% to 20%, where such buildings are completed on or before 31 December 2024.

In his Budget Speech, the Minister also noted that the deduction would also apply to developers constructing multi-family residential buildings, which is inconsistent with the current provisions of Section 16 of the Corporation Tax Act.

Incentives for multi-family dwellings are specifically addressed in Section 45 of the Income Tax Act which provide for an exemption from income tax until the year ending 31 December 2025 where construction commenced on or after 1 July 2016. It should be noted, however, that approvals in respect thereof have, disappointingly, not been forthcoming as the relevant Government agency works its way through regulations associated with the definitions of multi-family dwellings.

VAT Waiver on Imported Construction Material for Approved Building Projects

The Minister has proposed the removal of VAT on the importation of building materials to be used exclusively in connection with approved building projects, except for certain items such as road paving and aggregate material.

This measure will take effect from 1 January 2021.

In addition to the above-mentioned incentives, the Minister of Finance also stated in his Budget Speech

that government agencies will be mandated to reduce the time for obtaining approval for housing and construction tax incentives to three months or less.

STAMP DUTY

The Minister proposed an increase to the Stamp Duty threshold for residential properties for first time homeowners from \$1.5 million to \$2 million. Hence, first time homeowners purchasing properties valued at \$2 million and below will pay no Stamp Duty. This measure comes into effect from 1 January 2021.

TECHNOLOGY TRANSFORMATION AND INNOVATION MEASURE

As part of its push for full digitalization of the T&T economy and Government services, tax allowances of 150% capped at \$3 million in respect of the following have been proposed:

- ▶ Businesses which invest in tech start-ups and new tech business.
- ▶ Businesses which engage in technology solutions and digitalization.
- ▶ Businesses which create employment in the technology industry, particularly for young people.

It is unclear whether the aggregate allowance that may be claimed in respect of the three measures outlined above would be capped at \$3 million.

These measures will all take effect from 1 January 2021.

INTERNET MIFI FOR STUDENTS

The Minister announced the introduction of MiFi, a mobile device which uses the 3G/4G mobile phone networks to create a mini wireless hotspot which can be shared among mobile internet-enabled devices such as smartphones, laptops and tablets which are within range of its signal. This facility is for students who do not have internet access in their homes or surrounding areas. These devices would be provided to 45,000 students based on need, to provide them with connectivity which they do not now have.

This programme will come into effect in the first quarter of calendar year 2021.

EXISTING WI-FI HOTSPOTS AND INTERNET CAFES

The Minister indicated that the Broad Digital Strategy would be supported by expanding existing Wi-Fi hotspots and establishing internet cafes in all areas of the country and will specifically target students in all remote areas.

This measure will come into effect in fiscal year 2021.

CREATIVE AND SPORTING ACTIVITIES

The Honourable Minister proposed an increase to the current tax allowance for corporate sponsorship of nationals in the local fashion industry, audio, visual or video productions for the purpose of local education or entertainment and local production companies in respect of their own productions, as well as for companies which sponsor sporting activities or events or sportsmen or art and culture from \$6 million to \$12 million effective 1 January 2021.

TOURISM ACCOMMODATION UPGRADE PROJECT

The Honourable Minister signaled his intention to expand and extend the Tourism Accommodation Upgrade Project (TAUP) incentive. This facility provides a reimbursable grant for approved upgrade work done to eligible tourism accommodation facilities in both Trinidad and Tobago. It comprises two tourism incentive projects: Upgrade of Small Approved Tourism Properties in Trinidad and Tobago for properties with one to five guest rooms and the Trinidad and Tobago Hotel and Guesthouse Room Stock Upgrade Project for properties with six to 150 guest rooms. The extension will start on 1 October 2020 and expire on 30 September 2023.

INCREASE IN THE PERSONAL ALLOWANCE

The Honourable Minister has proposed to increase the personal allowance from \$72,000 to \$84,000 per year, effective 1 January 2021. The effect of such an increase is as follows:

	YOI 2020	YOI 2021
Income from employment	100,000	100,000
Personal Allowance	(72,000)	(84,000)
70% National Insurance Deductions	(3,243)	(3,243)
Chargeable Income	24,757	12,757
Tax @25%	6,189	3,189

This measure is intended to provide relief to households due to the Covid-19 pandemic and its effect on the household incomes. By increasing the personal allowance, the disposable income of an

individual with emolument income in excess of \$7,000 per month will be increased. This measure is expected to cost the Government \$750 million per year in individual income tax revenue.

VALUE ADDED TAX - REMOVAL OF VAT ON TECHNOLOGY ITEMS

The Honourable Minister has proposed the removal of all taxes on Mobile and Digital Equipment, Mobile Phones, Software, Computer Accessories and Peripherals.

During his Budget Speech, the Minister stated that all taxes have already been removed on computers and the remaining taxes on digital equipment, such as taxes on mobile and digital equipment and cell phones, will be removed in the Finance Act in December 2020.

On 4 September 2020, the Value Added Tax Act was amended to zero-rate laptop computers, notebook computers and tablet computers classified under Tariff Heading No. 8471.30.00 and the online purchase tax payable by all importers in respect of laptop computers, notebook computers and tablet computers, classified under Tariff Heading No. 8471.30.00. 3 was remitted. Both orders expire on 31 December 2020.

It is anticipated that the Zero-Rating Schedule of the Value Added Tax would be amended accordingly and that this measure will take effect from 1 January 2021.

VALUE ADDED TAX - LEVY OF VAT ON LUXURY ITEMS

It was announced during the Budget Presentation that the VAT base would be broadened to include luxury imported foods.

You would recall that the Schedule 2 (Zero-Rating) of the VAT Act was amended in 2016 to remove over 7,000 items that were previously zero-rated.

It would appear that the intention is to fine tune Schedule 2 of the VAT Act to levy VAT on the importation and sale of luxury food items.

The full list will be published in due course and will take effect on 1 January 2021.

SUPPLEMENTAL PETROLEUM TAX

Supplemental Petroleum Tax (SPT) is imposed on windfall profits, calculated on gross income from the sale of crude oil, including condensate. Income from the disposal of natural gas is not subject to SPT. The tax is charged on the gross income of marine and land operations at varying rates based on the weighted average annual crude oil price.

The current rates of SPT are as follows:

Weighted average crude prices (US\$/ bbl)	Marine	New Field Development*	Land and Deepwater Block
0.00 - 50.00	0%	0%	0%
50.01 - 90.00	33%	25%	18%
90.01 - 200.00	SPT rate = base SPT rate ¹ + 0.2% (P ² - \$90.00)		
200.01 and over	55%	47%	40%

The Honourable Minister has proposed an increase in the threshold for the imposition of SPT for small onshore oil producers from US\$50 to US\$75, for

1 Base SPT rate is equal to the SPT rate applicable at the crude price range of US\$50.01 to US\$90.

2 P = weighted average crude oil price in US\$.

fiscal years 2021 and 2022, in the first instance. This proposed measure would be subject to review for continuation at this threshold level at the end of this two-year period.

The Minister stated that based on discussions with the Energy Chamber, a small onshore oil producer is being defined at this time as producing up to 2,000 barrels of oil per day, however, the Petroleum Taxes Act defines a small marine oil field as a field that has production levels of 1,500 barrels or less of oil equivalent per day.

The Minister indicated that a similar provision would also be made available to small offshore producers.

It should be noted that the National Budget 2021 is predicated on an oil price assumption of US\$45 per barrel. As such, this proposed measure may not be of benefit to the small oil producers in the allotted two year timeframe unless there is an unexpected increase in oil prices.

MOTOR VEHICLES

The Honourable Minister proposed the removal of **all** tax concessions on the importation of private motor cars. Once implemented, all private motor cars will now attract customs duty, motor vehicle tax and Value Added Tax, with the lowest rates of duty and tax being imposed on hybrid cars, electric cars, CNG cars (previously exempt) and small engine cars below 1,500cc, to encourage their use. The tax concessions will remain in place for commercial and industrial vehicles and public transport vehicles. These measures will take effect from 20 October 2020. This is being done with an aim of suppressing

the demand for private motor vehicles, which the Minister believes is unsustainable.

Moreover, the Minister proposed to reduce the permissible age of imported foreign used cars to 3 years and reduce the importation quota by 30%. A new quota system will also be implemented for new cars in January 2021.

TOBACCO

The Honourable Minister announced the following disincentives to curb the consumption of tobacco:

- ▶ an increase in the excise duty by 20% on locally manufactured tobacco products;
- ▶ an increase in customs duty by 20% on imported tobacco from the Common Market Origin; and
- ▶ an adjustment to the customs duty payable on tobacco products imported into Trinidad & Tobago from extra-regional sources to have it receive equal treatment to that of the Common Market.

These measures will take effect from 20 October 2020. Enhanced measures should be put in place to prevent the illicit trade in these products.

STATUTORY PENALTIES

The Minister further went on to announce an increase of 200% on all penalties for selling alcohol and tobacco to minors, as well as all other penalties under the Liquor Licenses Act and the Tobacco Control Act. These measures will take effect from 1 January 2021.

ILLEGAL QUARRYING

With effect from 1 January 2021, the Minister proposed increasing all penalties, fines and custodial sentences for illegal quarrying on private lands and for illegal quarrying of asphalt or other materials on state lands. These penalties and fines are to be increased by 200%.

PRAEDIAL LARCENY

The Praedial Larceny Fines and Custodial Sentences are to be increased by 200%. This measure will take effect from 1 January 2021.

SPECIAL ECONOMIC ZONES

The Honourable Minister signaled Government's intention to establish a new national Special Economic Zones regime to replace the existing Free Zones regime. It is anticipated that the new Special Economic Zones regime will diversify the number and type of industries and, more importantly, locate these zones strategically in specific areas across the country. The Honourable Minister further stated that the Special Economic Zones regime would attract new, dynamic and sustained investments which the previous Free Zones regime could not achieve. It is expected that the new Special Economic Zones regime may include targeted incentives including generous indirect tax benefits (such as VAT and Customs Duties) as well as a preferential rate of Corporation Tax in order to encourage investment in specific sectors.

Government initiatives

PUBLIC PRIVATE PARTNERSHIPS

The Government is encouraging public private partnerships to relieve funding constraints and bring private sector technology, greater efficiency and innovation into the provision of better public services.

In particular, the Government has decided to adopt this approach with the Port Authority, retaining its regulatory and asset management functions, but with managerial, operational and financial responsibility for commercial activities, such as terminals and equipment in the port area, under a new investor.

The Ministry of Works of Transport will therefore be mandated to take immediate steps to rationalize the operations of the Port Authority of Trinidad & Tobago by the end of fiscal 2021 to introduce a private sector operator into the port to handle operations now carried out by the Port of Port of Spain. The ferry services will be left to the Trinidad & Tobago Inter-Island Company Limited and the lands to the Port of Spain Infrastructure Company.

The Government will also take steps to ensure that the operations at the Point Lisas Industrial Port Development Corporation are consistent with the operations of the port handling operations of the Port of Port of Spain.

REFORM OF LIQUID PETROLEUM PRODUCTS SECTOR

Fuel Prices

In keeping with the Government's intention to move towards the elimination of the burden of the fuel subsidy, one of the major announcements by the Honourable Minister was the proposed liberalization of the fuel market in T&T in light of projected international oil prices. Under this arrangement, the fixed retail margins for all liquid petroleum products will be removed with petroleum retailers and dealers being allowed to set their own margins.

The Minister stated that, while subsidies do not arise in the sale of premium gasoline or super gasoline at current oil prices, they continue to prevail in the sale of diesel, kerosene and LPG.

Presently, prices at the pump are fixed by the Ministry of Energy and Energy Affairs and have generally been lower than international market prices. Furthermore, such low prices are subsidized by petroleum companies and the State.

According to the Honourable Minister, the new deregulated market will bring an end to 46 years of fuel subsidies and the high social expenditure of \$25 billion in the last 14 years.

This arrangement is targeted for introduction in January 2021.

For the time being, wholesale margins will remain fixed and the Minister stated that an appropriate but reasonable tax would be introduced to compensate for the current fuel surplus that is generated on the sale of gasoline, because of depressed oil prices. While the Minister stated that the net result should be little or no increase in the price of motor fuels at current oil prices, it should be noted that if the price of oil recovers, the price of gasoline and diesel will increase proportionately.

The new trading arrangements between the importer of fuel petroleum products and the wholesalers would result in price adjustments for such products up or down based on changes in United States Gulf Coast product prices obtained from the Platts Oilgram Price Report, which is reflective of international market product prices.

Additionally, the Minister stated that for transparency purposes, the Ministry of Energy and Energy Industries will post the changes in the refinery prices of premium gasoline, super gasoline, diesel and kerosene on the first day of each month, except for the production price of liquid petroleum gas (LPG), which will remain under the subsidy mechanism.

Notwithstanding the anticipated positive impact of this measure on the Government's budget and the Minister's statement that the liberalized framework will lay the foundation for consumer acceptance in the future, where the market price of such petroleum products invariably rises, this may result in inflationary effects, primarily on transportation costs to both individuals and businesses. Moreover, businesses may seek to pass on such increased costs to consumers which may result in higher prices for goods and services.

Sale of Gas Stations

The Honourable Minister also announced that all gas stations presently owned by the Trinidad & Tobago National Petroleum Company will be offered for sale to the private sector with priority being given to existing dealers and concessionaires.

The liberalization of the market as mentioned above, as well as the opportunity to acquire existing gas stations and infrastructure, should simultaneously encourage new entrants into the market, as well as foster increased competition for the benefit of both the industry and its consumers.

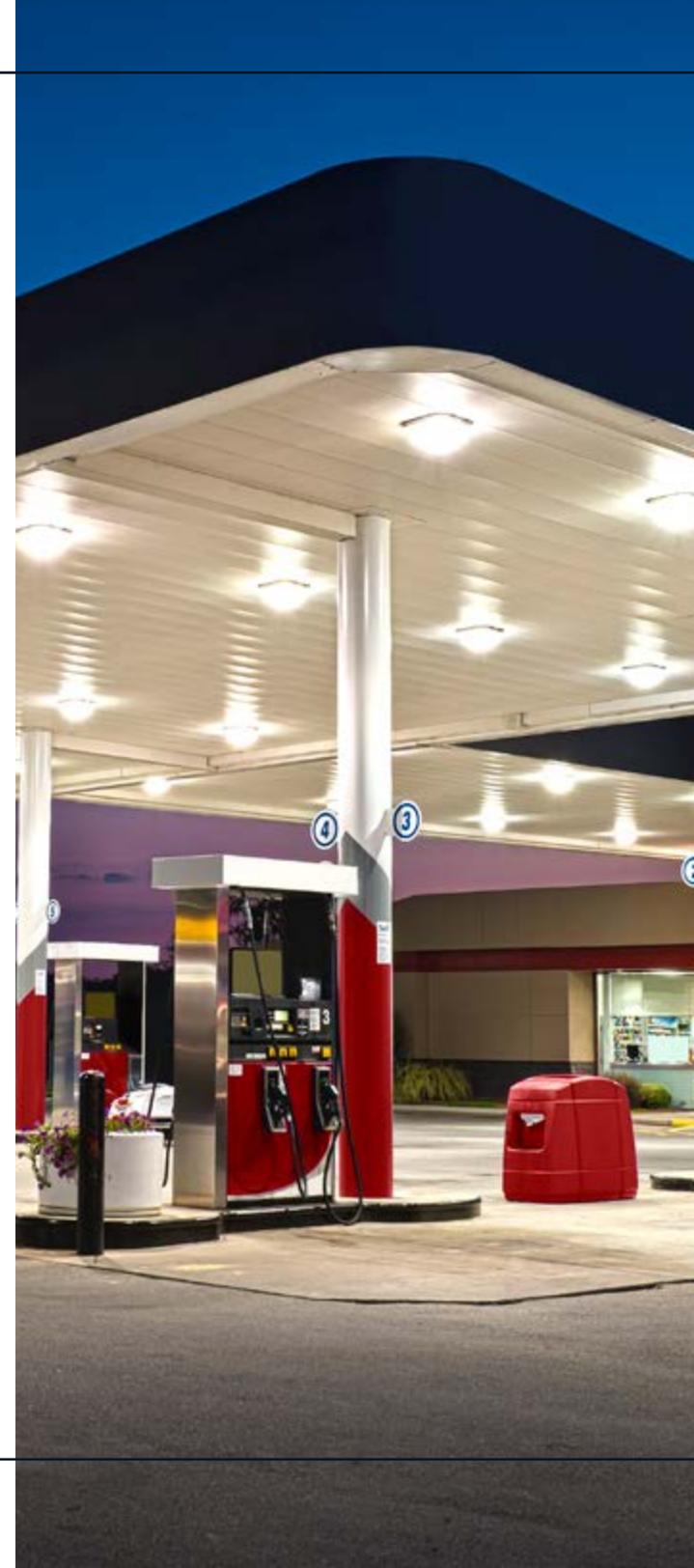
PUBLIC SECTOR: VACANT POSTS

Effective 6 October 2020, there will be a freeze on the filling of all vacant posts in the public sector for a period of one year.

WORKFORCE RECOVERY PROGRAMME

The Youth Training and Employment Partnership Programme (YTEPP) Limited has partnered with the Commonwealth of Learning (COL) for the COL-Coursera Workforce Recovery Programme, launched by COL and Coursera to address the employment crisis in Commonwealth nations. YTEPP is administering this programme through its Retraining Programme, which will target unemployed, underemployed, retrenched or displaced workers.

Individuals will have free and unlimited access to over 4,000 courses and 400 specializations on Coursera to develop certain skills. This measure will commence in January 2021 and will conclude in September 2021 and will cost the Government \$6.75 million.





Perspectives

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We are pleased to see that a number of the issues we have raised with the Government this past year have been addressed. In particular, was the Minister’s commitment to support TTMA’s strategic plan to double exports by 2024/2025. The Minister’s focused intention to improve the Ease of Doing Business through the implementation of building an “e-Government” will provide the foundation for transformation that will allow Manufacturing to thrive. However, we are cognizant that what is measured gets done and so are relieved to hear the Minister’s intention to track and report on progress of this digital transformation.

Specific to support for SMEs, the TTMA recommended a renewed allocation of \$100 million USD to manufacturers annually and the enhancement of capital markets through private equity and exit mechanisms, as well as tax credit to businesses investing in technology and software implementation. The Government has responded by speaking to the further expansion and growth of EXIM Bank geared towards providing enhanced assistance to the business community.

The TTMA has also been advocating for a more efficient VAT Refund system, consistent with provisions within the law and financial regulations. The TTMA looks forward to the implementation of Minister’s intention to provide this through the TTRA.

The TTMA is eager to see the effective implementation and execution of these and other initiatives announced by the Minister.

Franka Costelloe, TTMA

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Shifting global natural gas production and pricing dynamics have severely eroded the competitiveness of the petrochemical sector, which was once this country’s economic powerhouse and remains a major contributor to employment, skills development, revenue generation and foreign exchange. With an enabling policy framework and supportive fiscal regimes however, the petrochemical industry can not only survive, but thrive.

Immediate measures are needed to maintain the petrochemical sector’s crucial role in the gas value chain, restarting idled plants to get revenue flowing back throughout the sector and into the wider economy. In the longer-term, we must recognise that the energy sector is built on symbiotic relationships; collaboration across the gas value chain is needed to secure the sustainable future of our industry, and, by extension, our nation’s prosperity.

Claus Cronberger, Proman

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The Trinidad and Tobago Chamber of Industry and Commerce recognizes the unprecedented economic challenges which have impacted the National Budget for fiscal year 2021. We are disappointed that more was not done to address VAT and tax refunds such as introducing net offs and a separate ring-fenced fund.

We look forward to the continued digitalization of Government services to improve the ease of doing business. We welcome the measures focused on the small and medium enterprises, through revision of the SPT in the energy sector, privatization of retail fuel business, allocation of a percentage of government housing construction works to small contractors and enhanced incentives for SME listings on the Stock Exchange. With the increase of the personal tax allowance and incentives for the construction sector we hope this will increase economic activity and aggregate demand. Public-private partnerships creates opportunities for meaningful collaboration between government and the private sector which is essential to rebuilding our economy. Our belief is that strong businesses in the private sector are the foundation of a prosperous and equitable T&T.

Gabriel Faria,

Trinidad & Tobago Chamber of Commerce

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Against the backdrop of the pervasive economic impact of the COVID-19 pandemic, as well as the continued uncertainty over its duration, the projected \$8.6 billion fiscal deficit (5.6% of GDP) for the 2020/2021 fiscal year is unsurprising, if not optimistic. Positively, this figure, if realised, will be significantly smaller than the estimated \$16.8 billion deficit (11% of GDP) incurred in the previous fiscal year. As indicated by the Finance Minister, there was realistically speaking, not much scope to reduce the country's expenditure profile without exacerbating the current economic challenges. Notwithstanding this limited scope, Government's move to fully remove the fuel subsidy is applauded though the way it is done should be carefully orchestrated. With limited options on the cost side, the focus must be on revenue generation and in this respect, the reintroduction of the property tax is necessary. The Government is encouraged to explore other revenue generating initiatives which can be tied to its efforts to stimulate economic activity. In this respect, the acknowledgement of our unsatisfactory Ease of Doing Business scores is an important step and must be translated into actions aimed at reducing the unnecessary bureaucracies that retard business plans, particularly in the construction sector.

With respect to specific assumptions and initiatives, given the US Energy Information Administration's projections for Brent average spot oil prices to average US\$49.07 per barrel and Henry Hub gas prices to reach US\$3.19 per million British thermal units, the budget projections of US\$45 and US\$3 are achievable. Government's renewed focus on the agriculture sector is encouraging and the measures identified by the Finance Minister, including the \$500 million stimulus, will be surely welcomed by industry stakeholders. The successful implementation of these initiatives is important, as well as the launch of complementary programmes to address the long-standing bugbears identified by the Finance Minister and other issues, such as praedial larceny. Plans to accelerate the digitization of the public service and to facilitate the expansion of the digital economy are also reassuring but need to be preceded by long overdue amendments to various legislations. The increase of the personal income tax allowance to \$84,000 annually will provide much needed relief for many households and should help to fuel economic activity. Given the prevailing global conditions, Government's short term efforts to devise an appropriate balance between protecting lives and driving economic growth is necessary, though given our fiscal challenges, we do need to plan a fiscally sustainable way forward as soon as there is greater clarity re the longer term Covid impacts.

Nigel M. Baptiste, Republic Bank Limited

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The challenges of the pandemic are grave but temporary. Of long-term significance is the structural challenges posed by hydrocarbon supply and prices. The budget needed to offer measures to reduce human hardship and reverse the economic slowdown due to the pandemic. In addition, it needed to use the changes to the social, technological and business landscape caused by the pandemic as a springboard to give our economy a necessary facelift.

It is clear that the Budget seeks to address both of these areas. It acknowledges that long term revenue must be secured by stimulating growth and sets reasonable targets for budget deficits and debt/GDP by 2023. In particular, the articulated policies on creating a digital economy and growing a technologically driven agricultural sector are of significance as is the funding of critical police-service projects as low crime is the bedrock of economic activity.

There has always been tremendous opportunity to create significant economic activity for all of our population by finding the right mechanism for the public and private sectors to reinforce each other while ensuring an equitable distribution of wealth among our citizens. In this regard it is positive that there was emphasis on national competitiveness as well as working with the private sector for national development. The involvement of a private operator in the Port of Port of Spain is a significant step in this direction and the question arises of whether this should be extended to private operators for our airports.

The effectiveness of the Budget will rest on the quality of its implementation including the change management of the public sector as well as the achievement of collaboration and cohesion between different interest groups across the economy. Hopefully this can be achieved.

Ravi Tewari, Guardian Group



Proposed tax rates for income year 2021

INCOME TAX

Individual rate (based on chargeable income)	
Every dollar up to \$1,000,000 of chargeable income	25%
Every dollar that exceeds \$1,000,000 of chargeable income	30%

Allowances and Deductible Expenses

Personal allowance	\$84,000
Contribution to approved pension/retirement fund/ deferred annuity/70% NIS contribution	\$50,000
Tertiary education expenses (Note 1).....	\$72,000
First-time home owner allowance (Note 2)	\$25,000
Maintenance or alimony (under Court Order).....	amount paid (unlimited)
Donations under Deed of Covenant (Note 3).....	up to 15% of total income
Purchase and installation of CNG kit	tax credit of 25% of acquiring and installing (up to \$10,000)
Purchase of solar water heating equipment.....	tax credit of 100% of cost (up to \$10,000)
Purchase of bonds (National Tax Free Savings Bonds Regulations) (Note 4).....	tax credit of 25% of face value

Benefits in Kind

Motor vehicles/equipment	50% of wear and tear/ 50% of lease rental
Company owned housing	fair rental value
Staff loans.....	difference in CBTT repo rate and rate charged
Other benefits	cost to employer

Exemptions

Initial sale of a residential house site (Note 5)
Newly-constructed commercial buildings and multi-storey car parks (Note 6)
Income and dividends distributed by the CLICO Investment Fund (Note 7)
Multi-family dwelling (Note 8)
Other prescribed exemptions are available

Other

Health surcharge	\$4.80/\$8.25 per week
National Insurance.....	refer to National Insurance Table

CORPORATION TAX

Basic corporate rate (based on chargeable profits) (Note 9)	30%
Financial institutions (companies licensed to carry on banking business or the business of banking under the Financial Institutions Act) (Note 9).....	35%
Petrochemical companies rate (Note 10).....	35%
An approved small company (exempt from tax for five years commencing 1 January 2006).....	0%
SME listed company First five years from the listing on the Trinidad & Tobago Stock Exchange	0%
Next 5 years following the listing	50% tax holiday

BUSINESS LEVY

Rate (based on gross sales/receipts excluding exempt income)	0.60%
(Note 11)	

- ▶ The Company is liable to higher of Corporation Tax or Business Levy
- ▶ Not payable for the first 36 months from the date of registration
- ▶ Applicable threshold for individuals is \$360,000
- ▶ Applicable threshold for companies is \$360,000

GREEN FUND LEVY

Rate (based on gross sales/receipts including exempt income).....	0.30%
(Note 12)	

TAX ALLOWANCES

Audio, visual and video productions sponsorships (Note 13)	150%
Promotion of the fashion industry (Note 13)	150%
Art and culture allowance (Note 13).....	100%
Sports and sportsmen sponsorships/promotion (Note 13)	100%
Promotional expense uplift (Note 24).....	150%
Training allowance	150%
Scholarship sponsorships	100%
Constructing or setting up a child care or homework facility for minor dependants of employees	**100%
Investment in tech start-up and new tech business (Note 26)	150%
Technology solutions and digitalization (Note 26).....	150%
Creation of employment in technology industry (Note 26)	150%
Donations under Deed of Covenant (Note 3).....	15% of total income

** Up to a maximum of \$500,000 for each facility but not exceeding \$3,000,000 in aggregate in a year of income.

CAPITAL ALLOWANCES

Manufacturing Trades

Initial allowance – plant and machinery (Note 14).....	90%
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Wear and Tear Allowance – All Trades

Industrial buildings	10%
Building and improvements	10%
Childcare or homework facilities constructed or set up for minor dependants of employees (Note 15).....	10%
Office equipment	25%
Fixtures and fittings	25%
Plant and machinery (Note 16) (Note 16a).....	30%
Motor vehicles	25%
Boats	25%
Computers and heavy equipment (including rigs).....	33.3%
Aircrafts – second-hand	40%

CAPITAL EXPENDITURE DEDUCTIONS

Approved Property Development Company

Construction of commercial or industrial building	20%
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Capital expenditure incurred in the construction of commercial, industrial or multi-family residential buildings which are completed on or before 31 December 2024.

WITHHOLDING TAX RATES

Dividends and other distributions (Note 17)	5% / 10%
Interest	15%
Royalties	15%
Annuities	15%
Management charges	15%
Rents and other payments	15%

DOUBLE TAXATION TREATIES

Brazil	Germany	Sweden
Canada	India	Switzerland
CARICOM	Italy	United Kingdom
China	Luxembourg	United States of America
Denmark	Norway	Venezuela
France	Spain	

PETROLEUM TAX

Tax Rate of Tax

Petroleum Profits Tax	50% of taxable profits (petroleum operations in deepwater blocks 35%)
Unemployment Levy	5% of taxable profits
Supplemental Petroleum Tax (SPT)	rates based on weighted crude oil prices (refer to SPT Table), less certain incentives
Petroleum Production Levy	lower of 4% of income from crude oil for producers of more than 3,500 barrels of oil per day or share of subsidy
Petroleum Impost	% share to defray expenses of Ministry of Energy and Energy Industries (MOEEI)
Green Fund Levy.....	0.30% of gross sales or receipts (Note 12)
Royalties	12.5% of the net petroleum won and saved from the licensed or contract area (Note 18)

PETROLEUM ALLOWANCES

Tangible Costs

Tangible allowances are available from the year of expenditure at the rate of 20% of the expenditure calculated on a straight-line basis for five consecutive years commencing in the year of the expenditure.

Unrelieved Allowances as at 31 December 2019 will continue to be claimed in the manner in which they were calculated prior to 1 January 2020.

Intangible Drilling and Development Costs

The annual allowance granted with regard to intangible cost is 20% of the expenditure calculated on a straight-line basis for five consecutive years commencing in the year of the expenditure.

Unrelieved allowances as at 31 December 2019 will continue to be claimed in the manner in which they were calculated prior to 1 January 2020.

Other Petroleum Allowances

- ▶ Allowance of 100% of exploration costs is available for the period 1 January 2014 to 31 December 2017. If such allowance is claimed, no claim is available under initial/annual allowance, deepwater uplift, or deep horizon uplift.
- ▶ Allowances in respect of expenditure on exploration wells in a deepwater block shall be calculated by reference to 140% of the expenditure incurred.
- ▶ Allowances in respect of drilling of exploration wells in deep horizon on land or in shallow marine area shall be calculated by reference to 140% of the expenditure incurred and must be certified by the MOEEI.
- ▶ A deepwater block is where more than 50% of the acreage is deeper than 400m and must be certified by the MOEEI.
- ▶ Exploration wells in deep horizon means any exploration wells drilled at and beyond a true vertical depth of 8,000 ft on land or 12,000 ft in shallow marine area.
- ▶ Companies engaged in the upstream energy sector will only be allowed to claim loss relief of up to 75% of taxable profits effective 1 January 2020. No loss carrybacks are allowed. Carried-forward losses can be utilized only for PPT purposes.

SUPPLEMENTAL PETROLEUM TAX

Weighted average crude prices (US\$/bbl)	Marine	New Field Development*	Land and Deepwater Block
0.00 - 50.00	0%	0%	0%
50.01 - 90.00	33%	25%	18%
90.01 - 200.00	SPT Rate = Base SPT + 0.2%* (P-\$90.00)		
200.01 and over	55%	47%	40%

*Applies to new fields in shallow marine areas and must be approved and certified for development by the MOEEI.

Weighted average crude prices (US\$/bbl)	Small Marine**	Small Land**
0.00 - 75.00	0%	0%
75.01 - 90.00	33%	18%
90.01 - 200.00	SPT Rate = Base SPT + 0.2%* (P-\$90.00)	
200.01 and over	55%	40%

**Applies to small offshore and onshore oil producers for fiscal years 2021 and 2022.

The threshold for the imposition of SPT for small offshore and onshore oil producers would be increased from US\$50 to US\$75, for fiscal years 2021 and 2022.

In calculating the SPT liability, certain deductions, discounts and credits are allowed.

SPT Deductions, Incentives and Credits

- Royalties and overriding royalties 100% of amounts paid from crude oil disposals assessed to SPT
- Sustainability incentive 20% discount on the SPT rate (Note 19)
- Investment tax credit 25% of the qualifying capital expenditure as a deduction against the SPT assessed (Note 20)

- ▶ SPT paid is allowed as a deduction in computing taxable profits.

VALUE ADDED TAX

Standard rated goods and services (Note 25)	12.5%
Registration threshold..... commercial supplies in excess of \$500,000 for a 12-month period	
Zero-rated goods and services.....	0%
▶ Prescription medicines and drugs	
▶ Exports	
▶ Various unprocessed food items for human consumption	
▶ Crude oil, natural gas and iron ore	
▶ Services supplied for consideration other than TT\$ to a recipient who is not within T&T	
▶ Solar water heaters and photo-voltaic cells	
▶ Certain specified vessels and rigs	
▶ Certain specified back-office services supplied by Free Zone enterprises to financial institutions	
▶ Laptop computers, notebook computers and tablet computers	
▶ Mobile and Digital Equipment	
▶ Mobile Phones, Software	
▶ Computer Accessories	
▶ Peripherals	
▶ Importation of building materials to be used exclusively in connection with Approved Housing, Commercial and Industrial Development Projects, except for certain items such as road paving and aggregate material	
Exempt services	N/A
▶ Financial services	
▶ Rental of residential property	
▶ Medical services	
▶ Training and education (approved institutions)	
▶ Real estate brokerage	
▶ Accommodation in hotels, inns, guest houses (for stay that exceeds 30 days)	
▶ Public postal services	
▶ Betting, gambling and lotteries	
▶ Bus and taxi services other than bus services provided by the PTSC	

OTHER TAXES

Financial Services Tax	15%
Hotel Accommodation Tax.....	10%
Insurance Premium Tax	6%
Online Purchase Tax (Note 21)	7%
Property Tax.....	Note 22
Environmental Tyre Tax (Note 23).....	\$20/tyre

STAMP DUTY

Conveyance/transfer of stock/funded debt/shares listed on a self-regulatory organization:

Shares sold or transferred in accordance with the rules of a self-regulatory organization	Nil
Shares not sold or transferred in accordance with the rules of a self-regulatory organization	5% of the market value of the transaction

Conveyance/transfer of stock/funded debt/shares not listed on a self-regulatory organization:

\$0.00 – \$25.00	\$0.10
\$25.01 – \$50.00	\$0.25
\$50.01 – \$125.00	\$0.75
\$125.01 – \$250.00	\$1.00
\$250.01 – \$500.00	\$2.50
For every additional \$500.00 or part thereof	\$2.50

Conveyance or transfer on sale of commercial property:

\$0.00 – \$50.00	\$1.00
\$50.01 – \$100.00	\$2.00
\$100.01 – \$250.00	\$5.00
For every additional \$250.00 or part thereof up to \$1,500.00	\$5.00
\$1,500.01 – \$300,000.00	2%
\$300,000.01 – \$400,000.00	5%
\$400,000.01 – Over	7%

STAMP DUTY *continued*

Conveyance or transfer on sale of residential property (with dwelling house):

\$850,000.00 – \$1,250,000.00	3%
\$1,250,000.01 – \$1,750,000.00	5%
\$1,750,000.01 – Over	7.5%

Conveyance or transfer on sale of residential property (no dwelling house):

\$450,000.00 – \$650,000.00	2%
\$650,000.01 – \$850,000.00	5%
\$850,000.01 – Over	7%

Conveyance or transfer on sale of residential property (with dwelling house) to first-time home owner:

\$0.00 – \$2,000,000.00	0%
\$2,000,000.01 – \$2,250,000.00	5%
\$2,250,000.01 – Over	7.5%

NATIONAL INSURANCE TABLE OF CONTRIBUTION PAYMENTS (EFFECTIVE 5 SEPTEMBER 2016)

Earnings Class	Weekly Earnings (\$)	Monthly Earnings (\$)	Assumed Average Weekly Earnings (\$)	Employee's Contribution (\$)	Employer's Contribution (\$)	Total Weekly (\$)	Class Z Weekly (\$)
I	200.00 - 339.99	867.00 - 1,472.99	270.00	11.90	23.80	35.70	1.79
II	340.00 - 449.99	1,473.00 - 1,949.99	395.00	17.40	34.80	52.20	2.61
III	450.00 - 609.99	1,950.00 - 2,642.99	530.00	23.30	46.60	69.90	3.50
IV	610.00 - 759.99	2,643.00 - 3,292.99	685.00	30.10	60.20	90.30	4.52
V	760.00 - 929.99	3,293.00 - 4,029.99	845.00	37.20	74.40	111.60	5.58
VI	930.00 - 1,119.99	4,030.00 - 4,852.99	1,025.00	45.10	90.20	135.30	6.77
VII	1,120.00 - 1,299.99	4,853.00 - 5,632.99	1,210.00	53.20	106.40	159.60	7.98
VIII	1,300.00 - 1,489.99	5,633.00 - 6,456.99	1,395.00	61.40	122.80	184.20	9.21
IX	1,490.00 - 1,709.99	6,457.00 - 7,409.99	1,600.00	70.40	140.80	211.20	10.56
X	1,710.00 - 1,909.99	7,410.00 - 8,276.99	1,810.00	79.60	159.20	238.80	11.94
XI	1,910.00 - 2,139.99	8,277.00 - 9,272.99	2,025.00	89.10	178.20	267.30	13.37
XII	2,140.00 - 2,379.99	9,273.00 - 10,312.99	2,260.00	99.40	198.20	298.20	14.91
XIII	2,380.00 - 2,629.99	10,313.00 - 11,396.99	2,505.00	110.20	220.40	330.60	16.53
XIV	2,630.00 - 2,919.99	11,397.00 - 12,652.99	2,775.00	122.10	244.20	366.30	18.32
XV	2,920.00 - 3,137.99	12,653.00 - 13,599.99	3,029.00	133.30	266.60	399.90	20.00
XVI	3,138.00 and over	13,600.00 and over	3,138.00	138.10	276.20	414.30	20.72

NOTES

- Note 1:** Allowance does not apply to local and regional public tertiary institutions.
- Note 2:** Applies to residences constructed or purchased on or after 1 January 2011. Allowance may be claimed for each of the first five years commencing from the date of acquisition.
- Note 3:** Total income is the aggregate income after any deductions are made for expenses, allowances or loss relief.
- Note 4:** Credit applies to bonds with a maturity period of five, seven or ten years with a face value not exceeding \$5,000. Any unclaimed tax credit may be claimed in the succeeding years of income.
- Note 5:** Gains or profits derived from the sale are exempt from tax until the year ending 31 December 2025. The residential house site must be a part of a land development project.
- Note 6:** Exemption from tax until the year ending 31 December 2025 in respect of:
- Premiums and rents derived from letting
 - Gains or profits from initial sale of newly constructed commercial buildings and multi-storey carparks, construction of which commenced on or after 1 October 2012.
- Note 7:** Applies to income or dividends distributed to resident individuals and companies that are unit holders of the CLICO Investment Fund.
- Note 8:** Exemption from income tax until the year ending 31 December 2025 in respect of the income derived from the letting or initial sale of a newly constructed multi-family dwelling of which construction commenced on or after 1 July 2016.
- Note 9:** The rate of Corporation Tax payable for income year 2017 was 25% for every dollar up to TT\$1 million of chargeable profits and 30% for every dollar in excess of TT\$1 million of chargeable profits. Prior to income year 2017, the rate of Corporation Tax was 25% of chargeable profits.
- Note 10:** Applies to companies involved in the liquefaction of natural gas, manufacture of petrochemicals, physical separation of liquids from a natural gas stream, natural gas processing from a natural gas stream, transmission and distribution of natural gas, wholesale marketing and distribution of petroleum products as defined and any other activity so prescribed. Does not include companies operating a liquid petroleum gas filling plant or conducting a refilling operation, or companies involved in the sale and distribution of leaded and unleaded gasoline, diesel and kerosene lubricants and other car care products or operating service stations.
- Note 11:** The rate of Business Levy increased from 0.2% to 0.6%, effective income year 2016.
- Note 12:** The rate of Green Fund Levy increased from 0.1% to 0.3%, effective 21 January 2016.
- Note 13:** The aggregate allowance for these items is capped at \$12,000,000.
- Note 14:** 20% in the case of petrochemical and other companies enjoying benefits under the Fiscal Incentives Act.
- Note 15:** Applies to the amount of the excess over \$500,000 expended to construct or set up the child care facility.
- Note 16:** For Natural Gas Compressors (Transmissions) the Wear & Tear Allowance rate has been increased from 25% to 33.3%.
- Note 16(a):** It is uncertain as to the specific plant and equipment that would be included for this revised rate.
- Note 17:** 5% in the case of distributions paid to a parent company and 10% in all other cases.
- Note 18:** The value of crude oil for the purposes of payment of royalties shall be the net volume of crude oil won and saved at the fair market value from the licensed area or contract area.
- Note 19:** Applies to mature marine oil fields or small marine oil fields as certified by the MOEEI.
- Note 20:** Applies to approved development activity in mature marine oil fields and mature land oil fields or the acquisition of machinery and plant for use in approved enhanced oil recovery projects. The MOEEI must certify all development activities carried out in mature marine and land oil fields and enhanced oil recovery projects.
- Note 21:** Online Purchase Tax shall be charged at the rate of 7% of the value of a good which is:
- ▶ Purchased by means of an electronic transaction;
 - ▶ Imported into Trinidad & Tobago by air transportation;
 - ▶ Consigned to a consumer; and
 - ▶ Entered from a transit.
- The OPT shall be payable by the importer.
- Note 22:** The Property Tax Act, 2009, was assented to by the President on 31 December 2009 and was expected to come into operation on 1 January 2010. Taxpayers have, however, benefited from a moratorium on the payment of the tax since inception. Pursuant to the provisions of the Property Tax (Amendment) Act, 2018, the moratorium has been extended to 30 September 2017 or such later date as the Ministry of Finance may prescribe. The Minister established that it is the intention for the Government to commence the collection of Property Tax during the 2021 Fiscal Year, first starting with residential properties and then proceeding to commercial, industrial and agricultural properties, in that order.
- Note 23:** Tyres falling under the Customs tariff numbers 4012.20.10, 4012.20.90 and 4012.20.00 shall be taxed on import. The tax shall be payable to the Comptroller of Customs and Excise.
- Note 24:** A company may only qualify for a promotional expense uplift where the goods or agricultural produce has, as a result of such expenditure, been exported to a foreign market other than a country specified in the Sixth Schedule or for the first time to a country specified in the Sixth Schedule.
- Note 25:** Luxury Items to be included as Standard Rated. List to be published in due course.
- Note 26:** The maximum allowance is capped at \$3,000,000. It is uncertain whether the aggregate claim for these proposed measures would be capped at \$3,000,000.

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Sometimes you gotta fight when you're a man.

Kenny Rogers, *Coward of the County*

This Kenny Rogers' classic contains pearls of wisdom that transcend the Country & Western context that inspired the lyrics. If we replace the protagonist of the story, Tommy, with the “taxpayer” and the antagonist of the story, the so-called “Gatlin boys”, with the Board of Inland Revenue (BIR) - the counsel of the father to his son (Tommy) would still be as applicable today as it was when the song was released in 1979.

Tax litigation should always be the last resort.

When an issue arises between a taxpayer and the BIR, the first option should be to attempt to determine the matter outside of the Court system. Indeed, the Income Tax Act (ITA) of Trinidad & Tobago is replete with provisions designed to bring the taxpayer and BIR together to foster discussion and settlement. Section 86(8) of the ITA, for example, gives the BIR 24 months to re-consider its assessment of the taxpayer should the taxpayer “Object” to its assessment. This period of “Objection” is one in which both parties should seek to engage the other in conversation, in the spirit of conciliation. That said, if despite best efforts a fair

settlement cannot be reached with the BIR, which appears to be the new norm, then taxpayers should not cower away from litigation.

“Sometimes,” as Tommy said to his father, “You gotta fight when you're [in the right].”

Depending on the specific circumstances, there are primarily three routes taxpayers can take to engage the Court to facilitate an acceptable resolution of their dispute with the BIR. Below, we shall briefly summarize each option:

I. THE TAX APPEAL

Section 87 of the ITA gives the taxpayer the right to appeal to the Tax Appeal Board (TAB) within 28 days if he is dissatisfied with the decision of the BIR on the Determination of the Objection.

Upon receipt of the Notice of Appeal, the BIR has 21 days in which to file its Statement of Case setting out the relevant facts and the reasons in support of its assessment. The BIR is also required to file copies of all the relevant documents in the matter.

Section 8(2) of the TAB Act provides that the onus of proving that the assessment is wrong is on the taxpayer. However, because the TAB is a court of civil jurisdiction, the standard of proof is on a balance of probabilities and not the criminal standard of beyond a reasonable doubt.

In the event that either the taxpayer or the BIR is dissatisfied with the decision of the TAB, an appeal lies to the Court of Appeal. It should be noted, however, that section 8(7) of the TAB Act provides that the decision of the TAB is final on a question of fact but an appeal lies to the Court of Appeal only on a question of law.

Either party, if dissatisfied with the decision of the Court of Appeal, may appeal the matter further to the Privy Council.

II. JUDICIAL REVIEW

Where the issue falls outside of the assessment/objection conveyor belt taxpayers are not left without recourse.

Specifically, Section 5(1) of the Judicial Review Act (JR Act) provides that an application for judicial review of a decision or action of, amongst other things, a public body, public authority or a person acting in the exercise of a public duty or function in accordance with any law, can be made to the High Court in accordance with the JR Act and Civil Proceeding Rules 1998, as amended (Rules of Court).

In a decision of the House of Lords it was stated that:

“Judicial review is available where a decision-making authority exceeds its powers, commits an error of law, commits a breach of natural justice, reaches a decision which no reasonable tribunal could have reached, or abuses its powers. ...”

In a recent T&T case, Rahim J. utilized the judicial review procedure in favour of a taxpayer where the BIR delayed in processing its application for a tax refund. Rahim J. concluded that the BIR’s delay was unreasonable and ordered the BIR to take action within two weeks. The case gestated within the judicial system for a mere five months and the taxpayer was awarded generous costs (which is the exception for TAB Act appeals, not the rule).

III. THE INTERPRETATION RULING

Part 62.1 and 62.2 of the Rules of Court provide for application to the High Court to obtain an interpretation of a statute.

These rules were recently invoked by The Law Association of Trinidad & Tobago (LATT). The LATT asked the court to interpret specific provisions of the Value Added Tax Act in order to determine whether annual subscriptions paid by its members are subject to Value Added Tax Act.

In our view, this mechanism will be particularly appropriate where there is not a live dispute with the BIR, but the taxpayer is unclear as to the proper application of a provision and wants to obtain clarity in order to structure its affairs going forward.

CONCLUDING THOUGHTS

As can be readily discerned, taxpayers have a number of options if simple negotiation with the BIR do not bring an adequate resolution. In the circumstances, taxpayers would be well served by contacting their legal advisers to consider the appropriate step to bring their matter to a satisfactory and efficient conclusion.

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