

**The Commonwealth Association of Tax Administrators**



**cata**  
*Newsletter*

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CATA Conference in Nigeria in October 2010

Dates for AMP, CTIC and TOIT 2010 announced

CMDP "face to face" workshops discontinued

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**No.1 of 2010**

**March 2010**

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## *Editorial*

### **“Thinning” of Fundamental Principles of Taxation**

A company is said to be in a state of thin capitalisation when in the composition of its capital, there is a much greater proportion of debt than equity. The topic of this piece has nothing to do with that subject but like the thinning of capital leads to concern for creditors, investors and tax authorities, the thinning of basic principles of taxation in present day tax policy directions is something that needs to be considered carefully, because ignoring the long term implications of this policy shift over a period of time can alter the role of taxation in a negative way that might limit the role of taxation to nothing beyond “revenue generation at all costs” approach.

In the classical vision of taxation in modern societies, two basic concepts of equity were

considered fundamental in implementing an equitable and progressive taxation regime. The vertical equity principle is based upon the assertion that people with different incomes should pay different amounts of tax (Kaplow 1989). Equity is a basic yardstick used to gauge whether tax burdens are fairly distributed; closely aligned with the ability-to-pay principle. People with the same incomes should have the same ability to pay, and thus should pay the same amount in taxes. Progressive taxation envisaged multiple tax brackets, where people paid taxes based on the tax bracket into which their income level placed them. Each tax bracket had to have a different tax rate, with highest income earners paying the highest percentage of legislated tax. That was attacked from time to time on grounds of complexity. Though the opposition was not without justification, the harsh reality is that accusations of complications were put up less because of the multiple tax brackets themselves but more as a masked argument to bring down tax rates in general. If in a multiple tax brackets system with 6 or 7 brackets, the tax rates rose gradually from 10 to 60 percent, with 3 or 4 brackets, the jump in tax rates from one slab to another created a higher economic impact on the affected tax payer. That is where the expression “poverty trap” came into being. If someone in a 10% bracket suddenly jumped to the next bracket of 30% as result of 10% increase in salary, he was left worse off more suddenly than would have been the case with a graduated 10% or 15% increase in tax brackets.

That set the scene for bringing the lowest and highest tax brackets closer together to make the jump from one tax slab to the next less painful. That was the beginning of the process of “thinning” of the concept of progressive taxation. Something needed to be done to off-set the loss of revenue that the incremental lowering of highest tax rates inflicted on national exchequers. Well, why not broaden the tax base? Spread the effect across a broader spectrum of the economic pyramid! Indirect taxation started to find its feet more firmly. The concept of taxes on expenditure started to find more popular supporter amongst politicians and some of their mouthpiece academics. The economic compulsion of governance was to make up for lost revenues in lower income tax rates and that became the driver for a gradual strategic retreat from the ability to pay taxes concept. There are no prizes on offer for

guessing who or which class stood to gain from the thinning of the vertical equity principle. Was the second principle of horizontal equity treated any better? "The idea that tax policy should strive for horizontal equity is uncontroversial" (Musgrave 1990). Some even went to the extent of drawing parallels with the principle of "equal protection under law" enshrined in the United States Constitution. People with the same incomes logically had the same ability to pay, and thus should be expected to pay the same amount in taxes. Like for all things in life, theory is always very innocently simpler than practice and ground realities.

Concepts like tax exemptions for accelerated economic growth, sectoral preferences, incentives for foreign investment and economic uplift of backward areas within national boundaries were aggressively promoted with help of a mix of apparently genuine and some flimsy arguments. These almost eliminated the horizontal equity principle because large chunks of economic activities were moved outside the tax net. The fact that time showed that tax incentives did not have any significant and in some cases virtually no effect at all on investment decision goes to show how shallow some academic studies can be and how much devastating long term affect such approaches, mostly driven by powerful lobbies and pressure groups can be. Tax sparing clauses or phantom credits were structured into bilateral tax treaties that basically led to avoidance of taxation instead of avoidance of double taxation for which treaties were considered to be the single most reliable source of reference. Increasing ratio of indirect taxes in national tax efforts, import duties, excise taxes and VAT was also a step towards "thinning" of fundamental principles of taxation though as is always the case all sorts of other arguments were put forward. There were political, economic and practical reasons or necessities for broadening the tax base beyond income tax only. Direct taxes are exactly what they are described to be. The impact stays with the intended target. Direct taxes also are far more accurately visible than broadly applied indirect taxes. If the highest rate is 40% beyond a defined level of income, the earner will feel a direct impact of 40% when at the receiving end. Indirect taxation is politically popular precisely for the disguise and lack of visibility of full incidence. An editorial is too brief an opportunity to discuss

this issue in detail and implications but readers are welcome to take this as a test question. How many of us who buy petrol, breakfast cereals, air travel tickets, etc are aware even to a reasonable extent as to how much of the total price paid consists of production or commercial costs and what is the extent of indirect tax and duty component in each? Even as a tax man, I am not sure for any of the stuff I buy!

Eventually when the tax exemption approach was put into a u-turn, the motives were not essentially as noble as may have appeared to the casual student of the subject. The principal motive was regaining the revenue lost through hastily provided tax exemptions that were mostly triggered and pushed through the corridors of power for considerations that were largely to do with political affiliations and in extreme cases, simple greed and political bribery.

Will the initial considerations of vertical and horizontal ever come back in full bloom? Who knows? The world went full circle from nationalisation to privatisation and in the present global economic downturn, banks bailed out with injection of taxpayers' money have set in motion a hint of reversal again with the controlling share of governments rising to majority in some large banks. From a warning war cry of "hands off" to governments from interference in the affairs of the private sectors, came squealing calls from the same quarters for immediate government intervention and bailout packages. If the present trend of thinning of principles of equity in taxation goes far enough to create a fiscal situation similar in the extreme to that which led to the near collapse of the banking system through its own excesses and over ambition, calls for a return to basics in taxation is not completely unimaginable. Remember the saying, "never say never" in politics!

***Visit CATA website at  
[www.cata-tax.org](http://www.cata-tax.org)  
For all information about  
activities and forthcoming  
events***

## CATA News

### Thirty-First CATA Annual Technical Conference 2010

Arrangements are being made for the 31<sup>st</sup> CATA Annual Technical Conference to be hosted by Nigeria in Abuja. FIRS has informed that the conference will be held from the 10<sup>th</sup> to 16<sup>th</sup> of October 2010. Transcorp Hilton Hotel in Abuja will be the venue for the conference. The President of the Federal Republic of Nigeria is expected to declare the conference open on the 10<sup>th</sup> of October. Further information will be conveyed to members as and when received from Nigeria.

The following two topics will be discussed at the conference:

#### Topic 1: Taxation of specialized sectors

- a. Financial sector such as banking, insurance, etc.
  - b. Energy, including oil and gas
  - c. Air and shipping services
  - d. Telecom
  - e. Agro-based industries
2. Exchange of information – domestic and international

Meanwhile CATA Secretariat has issued a circular to all members inviting them to send Background Papers on each of the two topics for selection of countries that will be invited to make technical presentations at the conference.

Members are requested to send in their background papers **no later than 15 April 2010**.

### Achieving Management Potential (AMP) 2010

CATA is pleased to announce that Her Majesty's Revenue & Customs (HMRC) of the United Kingdom have completed all arrangements to run the Achieving Management Potential (AMP) training programme for 2010.

#### Dates:

Internet: Early June to Mid July 2010  
Residential: 2 August to 10 September 2010  
Internet: To end December 2010

The **closing date** for all applications is **16 April 2010**. Soon after this date candidates will be contacted by the Course Administrator. The online course will commence in **early June 2010**.

The course is intended for a maximum of fifteen participants.

### Commonwealth Tax Inspectors Course (CTIC) 2010

CATA is pleased to announce that Her Majesty's Revenue & Customs (HMRC) of the United Kingdom have also completed all arrangements to run the Commonwealth Tax Inspectors Course (CTIC) 2010 for compliance/audit officials.

Internet: Early June to Mid July 2010  
Residential: 2 August to 10 September 2010  
Internet: To end of December 2010

The **closing date** for all applications is **16 April 2010**.

Applications for both AMP & CTIC should be forwarded to the Course Administrator:

**Mr Sean Rabbett**  
**HM Revenue and Customs**  
**International Relations**  
**LG 72**  
**100 Parliament Street**  
**LONDON SW1A 2BQ**  
**Tel No: 0044 20 7147 0167**  
**Fax No: 0044 20 7147 0131**  
**E-mail: [sean.rabbett1@hmrc.gsi.gov.uk](mailto:sean.rabbett1@hmrc.gsi.gov.uk)**

### Workshop on Taxation of International Transactions (TOIT) 2010

CATA is pleased to announce that arrangements have been finalized to hold the Workshop on Taxation of International Transactions for senior and middle level tax officials for 2010. The Workshop will again be hosted by the Inland Revenue Board of Malaysia.

#### Duration

It will be a three-week workshop from 3 - 21 May 2010.

### **Venue & Accommodation**

The Workshop will be held at:  
The Malaysian Tax Academy  
Inland Revenue Board of Malaysia  
Persiaran Wawasan  
43650 Bandar Baru Bangi  
Selangor  
MALAYSIA

### **Financial Assistance**

The Malaysian Government will meet the cost of food and accommodation at the Malaysian Tax Academy for the duration of the Course.

Nominating Governments will be required to meet the cost of the return air fares. Participants are advised to bring along an equivalent of US \$25 per day to cover incidentals and personal expenses.

**The closing date** for the applications was 1 March 2010. Successful candidates will be informed by 15 March 2010 by the Malaysian Tax Academy.

**Further information** may be obtained from:

Mdm. Esther A. P. Koisin  
Course Coordinator  
International Training & Tax Education Centre  
Malaysian Tax Academy  
Inland Revenue Board of Malaysia  
Persiaran Wawasan  
43650 Bandar Baru Bangi  
Selangor, MALAYSIA  
Tel No: 603-89262082  
Fax No: 603-89257005  
E-mail: esther@hasil.gov.my

### **CMDP Workshop discontinued**

CATA Secretariat has been formally informed by Australia that it is withdrawing from its commitment of face to face delivery of its CMDP workshop with immediate effect. CATA has been further informed that Australia understands that New Zealand is of the same view. ATO intends to invest its resources in developing a product which will be accessible to all CATA members through the CATA web site or on a CD as was done by CRA with its Tax Audit Fundamentals.

Members are being provided this information almost as soon as it was received to help them plan their annual CATA training schedules by not

including the CMDP workshop as a potential capacity building option from 2010 onwards.

### **Appointment of Executive Director**

The process of appointment of a new Executive Director for CATA with effect from 1 October 2010 is well underway. After the deadline for applications, shortlisted candidates are being invited for an interview at the CATA Secretariat in London on Monday, the 26<sup>th</sup> of April, a day before the annual meeting of the Management Committee of CATA on 27<sup>th</sup> and 28<sup>th</sup> of April. The selection panel will brief the MC about its recommendations on the first day. After approval by the MC, the successful candidate will be informed and invited to join the Secretariat on 1<sup>st</sup> August for a two months settling in overlap with the present incumbent. The new appointee will assume full and independent charge from the 1<sup>st</sup> of October 2010.

### **New Country Representatives**

#### **India**

Shri Sunil Gupta, Joint Secretary (TPL-II), Central Board of Direct Taxes has recently replaced Shri Ashutosh Dikshit.

#### **Samoa**

Ms Pitolau Lusua Sefo Leau has replaced Mr Fuimaono P Te'o as Chief Executive Officer, Inland Revenue Service.

### **Appointments**

#### **New Country Correspondents**

#### **India**

Shri Ashish Kumar, Director (TPL-I), Central Board of Direct Taxes has recently replaced Shri Pradip Mehrotra.

#### **United Kingdom**

Ms Angelia Burke from the Tax Treaty Team, HM Revenue & Customs replaced Ms Jas Sahni as the UK Correspondent in January 2010.

## COMSEC News

### **Her Majesty The Queen's message on Commonwealth Day 2010**

#### **Head of the Commonwealth, on Commonwealth Day 2010**

Today's societies are constantly seeking ways to improve their quality of life, and science and technology play a vital part in that search.

Experimentation, research and innovation, mean that more opportunities for improving people's lives exist today than ever before. Take long distance communication, where the obstacles of time and geography have been dramatically reduced: people can now use mobile phones to be in instant contact virtually anywhere in the world, be it with a medical centre in the Himalayan mountains in Asia, a Pacific island school, a research facility at the South Pole, or even the international space station, beyond this planet altogether.

Advances in modern telecommunications are also having a marked economic effect on people from developing nations in the Commonwealth, helping to transform small to medium-sized businesses. The internet is playing an important part in helping to nurture these fledgling markets but, as yet, it still remains an unaffordable option for too many of our Commonwealth citizens.

Progress in the fields of healthcare, manufacturing, and education have, for the most part, helped improve people's lives throughout the world. In the health sector, the Commonwealth has shown how collaborative schemes can successfully assist member states to fight pandemics and diseases.

In making these advances the Commonwealth recognises that the best forms of innovation are those that unite, and help build resilient partnerships and better societies as a whole.

This is particularly important for the more than half of the Commonwealth citizens who are under 25 years of age. It is vital that their potential to build on the exceptional scientific expertise that exists in member states is also fully supported through education and social development. The Commonwealth understands this, and should continue to aid and encourage our young people to participate in the exciting new opportunities that

lie ahead, in the knowledge that progress is something which must be sustained and shared by all.

#### **Secretary General's message on Commonwealth Day 2010**

In the Commonwealth and the world over, our use of science and technology – in the causes of society and development – has been largely for the good.

Recent medical advances have allowed us to understand and tackle the world's greatest health challenges, for instance with new pharmaceuticals, genetic analysis, bio-technology, diagnostics and advanced treatments.

Technological progress has changed the way that we provide information and education, and conduct business. Other advances have allowed us to improve both the quality and the quantity of the food that we have available. New solar, wind and other technologies allow us to use carbon-neutral energy.

It is clear that one of the biggest services that science and technology can render to humanity will be in providing the environmental solutions which the world so actively seeks, and the Commonwealth can play a role in helping developing countries to access that help, especially through partnerships.

The consequences of our progress, however, have not always been fully realised at the time that new technologies were introduced. Some have later presented safety and environmental concerns, while others have raised moral and ethical questions.

New ideas and inventions sometimes challenge established values and ways. Questions arise about whether a new technology, for instance, takes a step too far in terms of civil liberties, or if it has other social consequences.

In finding a way forward, each of us as Commonwealth citizens in democratic societies needs to be informed, to understand, and to exchange opinion about the possibilities of science and technology. The discussion needs to be held as much in universities, laboratories and

government offices, as in homes, schools, and in the media. Society will benefit fully where all people, including the vulnerable and those on the margins, are involved in public discussion and its outcomes.

In the Commonwealth, we place great emphasis on ensuring that progress embraces all. We build and maintain partnerships and networks, so that people can come together to learn from and share with each other, and profit from this collectively. It is well recognised that science and technology are integral to our future as a global community, and that future possibilities are beyond our present imagining. Science and Technology only fulfill their promise when they serve Society.

### **Quotes on the Commonwealth**

#### **Barack Obama, President of the United States of America**

"I am confident that we can work together in a spirit of peace and friendship to build a more secure world during the next four years. I look

forward to working with you in that effort and in promoting good relations between the United States and the Commonwealth."

#### **Syed Yousaf Raza Gilani, Prime Minister of Pakistan**

"As one of the eight signatories to the London Declaration of April 1949 that founded the modern Commonwealth, Pakistan remains committed to the values of the Commonwealth and is proud to be part of the Commonwealth family of nations. We believe that global challenges can be best resolved when we combine our collective wisdom and strength."

#### **Sheikh Hasina, Prime Minister of the Government of the People's Republic of Bangladesh**

"The strength of our Commonwealth lies in its unity of vision of pluralism, liberalism, democracy and political institutions amid the diversity in race, ethnicity and religion."

## Members News

### Australia

*Country Correspondent*  
*Ms Sarah Safransky*



#### Offshore Voluntary Disclosure Initiative

The ATO has launched a new initiative to encourage taxpayers to come forward and disclose any unreported income from offshore activities. The new Offshore Voluntary Disclosure Initiative (OVDI) informs taxpayers of the likely consequences of making a disclosure and offers reduced shortfall penalties if they make a disclosure. In many cases, taxpayers have unreported offshore income if they change their country of residence or are not sure how to handle investments in offshore funds or bank accounts. Under this new initiative, people can approach the ATO anonymously for an indication as to whether the ATO would undertake an investigation to determine whether there is any potential breach of the criminal law. In considering whether to investigate a matter, the ATO views favourably taxpayers who make a voluntary disclosure and cooperate with them or with law enforcement agencies.

For more details see

<http://ato.gov.au/individuals/content.asp?doc=/content/87082.htm&pc=001/002/012/015/012&mnu=44706&mfp=001/002&st=&cy=1>

#### Online payment arrangement calculator

A new online payment arrangement calculator is now available to support the Australian community in managing their debt payments. With the advantage of being available 24 hours, the new online calculator means taxpayers no longer need to ask for advice and options by phone on how they can pay a debt. The online calculator allows users to work out a payment arrangement that meets their circumstances. It

can also be used to determine how quickly a tax debt can be paid off, taking into account the interest charged. See

<http://www.ato.gov.au/individuals/content.asp?doc=/content/00196933.htm>

#### Tax Information Exchange Agreements signed with Guernsey, Cook Islands, Aruba and Samoa.

Australia recently signed Tax Information Exchange Agreements (TIEAs) with Guernsey, Cook Islands, Aruba and Samoa to help combat tax evasion and further strengthen our global exchange network.

These agreements can be viewed at

<http://www.treasury.gov.au/contentitem.asp?NavId=&ContentID=1634>.

<http://www.treasury.gov.au/contentitem.asp?NavId=055&ContentID=1648>

<http://www.treasury.gov.au/contentitem.asp?NavId=055&ContentID=1696>

<http://www.treasury.gov.au/contentitem.asp?NavId=055&ContentID=1698>

#### CATA Commonwealth Management Development Program

ATO officer Megan Lugg recently presented a three-week management and leadership workshop in Mauritius. The workshop was part of the Commonwealth Management Development Program which is an annual CATA event. The workshop was hosted by the Mauritius Revenue Authority. A key feature of the workshop is that participants must complete a small project after returning to their workplace, to both maximise learning transfer and demonstrate the benefit of attending the program for themselves and for their administrations.

Twenty-one participants attended the workshop, 14 of whom were from the Mauritius Revenue Authority, two from the Inland Revenue Service of Ghana and one each from the revenue authorities of Sri Lanka, Kenya, Botswana, Malawi and Gambia.

## **Barbados**

*Country Correspondent*  
*Mrs Jennifer Reid*

### **New Automated Tax Administration System**

After three years of planning, a new tax administration system was implemented by the Department of Inland Revenue designed to process tax returns electronically. The system was assisted by the Inter-American Center of Tax Administration (CIAT) and has been established for the income year 2008.

### **Training Seminar/Workshops**

Ms Sonia Jones, Chief Internal Auditor attended a workshop in San Juan, Puerto Rico from September 17 – 18 2009. The topic discussed at the workshop was “The New Trends in Internal Auditing”.

Mrs Carolyn Roberts, Tax Officer, attended a Tax Treaty Course in Malaysia from October 5 – 16 2009.

Mrs Kathy-Ann Sealy, Professional Accountant, Mrs Doriel Francis and Mrs Judy Roach, both Senior Inspectors attended a workshop at Accra Beach Resort in Barbados from October 12 – 15 2009. The topic was “Caricorn Tax Treaties”.

### **Retirement**

Three officers will retire from the Department over the period October to December 2009. Mrs June Parris, Inspector retires in October 2009 after twenty-six (26) years. Mr Winston St John, Assistant Accountant retires in December 2009 after sixteen (16) years and Mrs Joyce Sealy, Senior Inspector retires in December 2009 after forty (40) years. These officers have made valuable contributions to the growth of this Department over the years. We all wish them a long and healthy retirement.

## **Canada**

*Country Correspondent*  
*Ms Debra Shalla*



### **New National Revenue Minister announced**

New Brunswick Member of Parliament Keith Ashfield has replaced the Honourable Jean-Pierre Blackburn as Minister of National Revenue. Minister Ashfield is also Minister for the Atlantic Canada Gateway, and Minister of the Atlantic Canada Opportunities Agency. These changes were announced by Prime Minister Stephen Harper during a federal cabinet shuffle on January 19, 2010.

Minister Ashfield was first elected to Canada’s House of Commons in 2008. In October 2008, he was appointed Minister of State (Atlantic Canada Opportunities Agency).

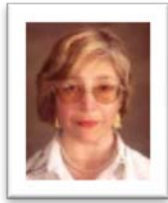
Prior to his federal election, Minister Ashfield served in the New Brunswick Legislative Assembly. From 1999 to 2003, he served as Deputy Speaker of the Legislature and as provincial Minister of Natural Resources from 2003 to 2006.

Before entering politics, Minister Ashfield was active in local, provincial and national school trustee associations. He also held senior positions in local companies, and has owned and operated his own businesses.

Minister Ashfield’s predecessor, the Honourable Jean-Pierre Blackburn was appointed the Minister of Veterans Affairs. Shortly before leaving his National Revenue portfolio, Minister Blackburn met with his counterparts in London, Paris and Berlin to reconfirm Canada’s commitment to work together with international partners to combat the abuse of tax havens and aggressive international tax planning.

## Cyprus

*Country Correspondent*  
*Mrs Athina Stephanou*



### **Transfer Pricing**

Transfer Pricing (TrPr) is the price charged for the supply of goods and services to associated parties. It is applicable to financial avoidance as well e.g. loans, rents etc. TrPr manipulation is used by group companies including multinationals to reduce the tax of the group.

Due to this reason, it is examined by tax administrations that prices charged are at arms length; by this we mean the same price is charged as to non-associated parties.

As a Department we have limited experience on the matter, but actions for improvement have been taken. Employees attended seminars organized by OECD, IOTA, CATA and Fiscalis (EU). Furthermore in 2004 thirty employees were trained by an HMRC Expert, sponsored by TAIEX a Unit at European Commission and in 2008 HMRC Experts prepared a manual on Transfer Pricing on behalf of the Department under a Light Twinning Project, sponsored by the European Commission.

The legal framework in respect of TrPr is section 33 of Income Tax Law, which is in force since 1.1.2003. It reflects the transposition of article 4(1) of 90/436/EEC Convention on the elimination of Double Taxation in connection with the adjustment of profits of associated enterprises, which is in line with article 9(1) of OECD Model on Income and Capital and OECD Transfer Pricing Guidelines which in fact refer to article 9(1) of OECD Model on Income and Capital. Domestic Legislation has been extended to cover and transactions between connected parties as defined in legislation.

Tax assessors may open an enquiry in a high risk case without eliminating the possibility of

examination of a low risk case, if there is evidence. Cases are detected through the review of tax returns of large groups. In the future such cases may also be detected through the computerized parametric risk assessment and rating system.

Considering that Cyprus is a low tax jurisdiction of 10% Corporation Tax, high risk in case of cross-border transactions, would be transacting with tax havens or tax shelters. As multinationals wish to utilize any tax losses as soon as possible, high risk can be a transfer of profits to a higher tax jurisdiction country, if the associated party has tax losses.

Adjustment will only be made if there is an increase in profits/decrease in losses. No Thin Capitalization rules apply and adjustment can only be made to rate of interest. Financial companies are also subject to TrPr rules. In deciding the arms lengths range all factors relating to a transaction need to be taken into account. For instance, in case of a loan from A to B some of the factors to be considered are mortgage/guarantees, duration of repayment of loan, potential of company using the loan, geographic location of recipient – Government regulations, political instability, the use of loan, currency stability, withholding taxes etc.

The methods used for defining Arms Length Price (ALP) are in accordance with OECD TrPr Guidelines. Acceptable methods are the traditional methods, the Comparable Uncontrolled Price “CUP”, the Gross Profit Margin (Resale price and cost plus methods) and the other methods the Profit split and the Transactional Net Margin “TNMM”. The alternative methods are used if traditional methods cannot be used, due to insufficient data or lack of reliable data on prices or gross profit margins and after consideration of their reliability.

The TNMM is popular in USA. Some countries do not accept this method as an alternative method. Per Transfer Pricing Guidelines the strength of this method as an alternative method is that Net Margins are less affected by transactional differences than is the case with price, as used in the CUP method. Net margins may also be more tolerant to some functional differences between controlled and uncontrolled transactions than gross profit margins. The greatest weakness is that the Net Margin of the taxpayer may be

influenced by some factors that either do not have an effect or have a less substantial effect or direct effect, on price or gross margin e.g. new competitor in market.

Per Transfer Pricing Guidelines one of the strengths of the Profit Split method as an alternative method, is that it does not rely on comparables therefore it can be used when there are no comparable transactions. One of its weaknesses is that it is based on subjectivity for the profit split.

Data for comparison may be found on the internet, in tax files/books of same/other taxpayers, in published accounts, SEC sites, company's house etc. We do not subscribe to any commercial database.

In Cyprus we do not make APAs (Advance Pricing Agreements). Few countries in Europe make APA but number is increasing. APA can be useful in cases of huge multinationals that as a result of their size are examined every year and are made on a bilateral or multilateral basis, through a MAP between competent authorities, so possible tax adjustments are avoided. Also enterprises with high risk of being examined may opt to make an APA.

Mutual Assistance between tax authorities can be used if necessary. The legislation governing this is the Exchange of Information Directive 77/799/EEC as amended—Transposed into domestic legislation (for EU countries). Directive 2004/56/EC which amends the directive 77/799/EEC covers multilateral controls. As regards third countries exchange of information is covered by the provisions of the Double Tax Agreement (DTA) Article 26 of OECD Model on Income and Capital deals with Exchange of Information and covers simultaneous examinations (multilateral controls) as well.

Transfer Pricing Adjustments are generally considered tax avoidance unless proved by the Director of Inland Revenue (DIR) that there has been fraud or willful default. For the year of assessment (YA) up and including 2005, interest is charged from the due date (1<sup>st</sup> of August following the year of assessment). For the YA 2006 and onwards, if a tax return is submitted in time (31/12 following the year of assessment) AND tax is paid by the due date (1/8 following year of assessment) and adjustment is made after

3 years from due date of submission of return, then interest is applied from the 1<sup>st</sup> day of the month, following the end of the month, following the month of issue of assessment. Otherwise interest is charged from the due date.

Tax due (up to 31.12.2006), carries 9% interest and from 1.1.2007 8% from due date (1 August following year of assessment). The above dates refer to actual dates and not YA. The interest is charged per complete month of delay of payment of tax -S39 (7) Assessment and Collection of Taxes Law (ACTL)

In addition to interest, up to the YA 2005, a 5% penalty on tax due is imposed.

From the YA 2006 and onwards, if a tax return is submitted in time AND tax is paid by due date and adjustment is made after 3 years from due date of submission of return then no 5% penalty is imposed. In all other cases, (YA 2006 and onwards), a period of 30 days is given for payment of tax due, for the waive of 5% penalty on tax due (30 days count from last payment date which is the end of month following month of issue of assessment).

In cases of fraud or willful default, a penalty over and above the tax agreed as a result of adjustment can be imposed, provided the case is agreed with the Tax Authorities (penalty paid for compromise of offense). Interest and 5% penalty are imposed on penalty for compromise of offence. Taxpayers have the option to file a recourse to the Tax Tribunal or to Court, if they disagree with the decision of DIR. If Tax Tribunal is opted and they disagree with the decision of the Tax Tribunal they can file a recourse to Court. If they are not satisfied with the decision of the Court, they can file a recourse to the High Court of Justice.

Taxpayers can initiate a Mutual Agreement Procedure (MAP), which commences when there is Double Economic Taxation – same income taxed in different countries. Convention 90/436/EEC deals with MAP and was adopted in domestic legislation on 14/4/2006 with effect from 1/10/2006. It is interpreted in accordance with the Code of Conduct for the effective implementation of the convention as published in European Gazette. As regards third countries, MAP is carried out in accordance with the provision of the DTA. Article 25 of OECD Model on Income and Capital deals with MAP. Per OECD Model EU countries must follow the

provisions of EU Convention and not the provisions of DTA.

The EU convention and article 25 are similar but there are some differences. For instance, per the Code of Conduct, all collection measures are frozen. As regards third countries, it depends on what is provided in the DTA. As regards DTAs and in accordance with OECD Model 2008, arbitration procedure can only be applied if provided in the DTA.

Abusive transfer pricing, (a serious penalty was imposed), may lead to denial of MAP by either Tax Authorities. What is serious penalty is specified in the legislation passed in 2006 transposing EU Convention to Domestic Legislation. As regards third countries, it must be stated in the DTA what a serious penalty is for denial of MAP. OECD Model 2008 on Income and Capital suggests that irrespective of whether DTA includes article 9(2) of OECD Model, corresponding adjustment must be given by a contracting state. Per model any adjustments agreed under a MAP must be implemented irrespective of time limits in domestic legislation and in a DTA either the above or time limits must be included, otherwise time limits of Domestic Legislation will apply.

Corresponding Adjustments are not automatic. Tax Authorities need to satisfy themselves before they proceed to a corresponding adjustment. Per article 14 of EU Convention, per Transfer Pricing Guidelines and per commentary on article 9(2) OECD Model on Income and Capital, corresponding adjustment can be given either by reducing taxable income or by allowing by a way of credit the extra tax chargeable (per EU Convention) or extra tax paid, per OECD Model. Cyprus has opted the credit method.

Bear in mind that Books of account are kept for 7 years from the end of YA, unless an objection or recourse is pending or otherwise required by the DIR (s.30 ACTL) Section 30 is not under the scope of Arbitration Convention or OECD Model on Income and Capital.

It is important that all concerned, taxpayers, auditors, tax advisers and tax authorities are fair. So each country gets its fair amount of tax, thus avoiding any problems in the future.

## JAMAICA

*Country Correspondent*  
*Miss Meris Haughton*

### **Tax Administration introduces online option for paying & filing payroll deductions**

#### **Demonstration for the online payment and filing of payroll deductions:**

Dawn McNeil, Collector of the “Virtual” Tax Office shows Timothy Fullerton from Tank-Weld Group of Companies how to file and pay payroll deductions online, using the tax portal



[www.jamaicatax-online.gov.jm](http://www.jamaicatax-online.gov.jm) at a focus group session held by the Tax Administration on October 15, 2009.

In a move by the Jamaican tax authorities to make it easier for persons to pay taxes, the Tax Administration has expanded its online services, to include activities relating to payroll deductions. Since November 1, 2009, employers are able to pay and file declarations for payroll deductions electronically.

In preparing to unveil the new online option, the Tax Administration recently hosted a focus group session, to familiarise representatives from the business and accounting communities with the expanded e-filing/payment system. The participants were shown a demonstration of the payroll deductions online payment option and later took part in a “hands on” exercise.

Business operators from the Focus Group and other regular users of the e-Filing/Payment Portal were invited to participate in a pilot phase, scheduled for November 1 – 14, 2009. The selected employers have been guided to use the new online option to make their payroll deductions and declarations for the period October 1 – October 31, in respect of Pay As You Earn (PAYE) - Income Tax, Education Tax, and other payroll deductions, before the November 14 due

date. Feedback will be analysed and the new online payroll deductions option offered “live” to all employers by the end of November 2009.

The Tax Administration’s online service, [www.jamaicatax-online.gov.jm](http://www.jamaicatax-online.gov.jm), was initially launched in 2004, with the option to pay General Consumption Tax (GCT)/Special Consumption Tax (SCT), Property Tax, Traffic Fines and some trade licences and fees. Following the passing of the Electronic Transactions Act, the online service was expanded last November to facilitate the electronic filing of GCT/SCT Returns. With this latest phase now implemented, the tax authorities, in partnership with our information technology service providers, FISCAL Services Ltd, are working to further expand the online service by March 31, 2010. This will accommodate the online filing of Self-Employed, Individuals and Corporate Income Tax Returns. The filing of other tax types will be introduced in later phases.

#### **Jamaica launches tax reminder text messaging service**

September 14, 2009 saw the launch of a new service, called “**TAXREM**”, by Jamaica’s Tax Administration. The service allows customers to receive text message reminders on their cellular phones to renew Motor Vehicle Registration, Certificate of Fitness and reminders to file General Consumption Tax (GCT) returns and make payments.

To sign-up, persons first need to visit any the 30 Tax Offices located across the island, speak with a Taxpayer Service Officer and complete the relevant form; Contact the Tax Administration’s Customer Care at 1-888-TAX-HELP or register online via the Tax Administration’s website [www.jamaicatax-online.gov.jm](http://www.jamaicatax-online.gov.jm). In signing up, persons simply need to provide their Taxpayer Registration Number (TRN), Licence Plate Number(s) and the cellular number to which messages are to be sent. 1,508 business persons and individuals have since signed-up for the service.

The **TAX REM** service is scheduled to be expanded to include text message reminders for the renewal of Driver’s Licence, Road Licence, and other tax returns and payments.

## **Malawi**

### ***Country Correspondent Mr William Chagona***

#### **CATA Conference and Management Meeting**

September 2009 will remain a memorable month for the Malawi Revenue Authority as it had the rare opportunity and privilege of hosting the prestigious CATA Conference. The Conference was graced by the Deputy Minister of Finance, Hon Nihora, who officially opened the conference and hosted the guests to a delicious dinner, the first of many that delegates were hosted to during the week-long conference.

This will not be a synopsis of what took place, in case some may be worried of stories. However, through this Newsletter, the Commissioner General of the MRA as well as the Commissioner of Domestic Taxes, who is the current Chair of CATA, once again express their gratitude to all those who made it to this year's conference as well as those who made contributions through submission of papers. Special appreciation goes to Nigeria, the next host, for sending many delegates as well as observers to the conference. We were greatly honoured. Lastly, thanks to all who participated in organisation of the conference including GTZ for the financial partnership and the IMF's FAD for sharing its wealth of research.

#### **Other News**

##### **New Deputy Commissioner General**

The MRA is pleased to update members that it now has a new Deputy Commissioner General, Mr Crispin Kulemekka. He succeeds Mr Ralphael Kamoto.

He is no stranger in both the tax business and the MRA. He was Officer-in-Charge of a Customs Border Station in 1978 and rose through the structures to the level of Regional Manager for the Centre and North in 1990. He was involved in setting up the Authority while in Treasury. His direct involvement with the MRA started in 2000 when was appointed as the Director of Policy Planning and Research. He became the first Commissioner for Surtax (now VAT), before being seconded to Treasury where he served in the capacity of Director of Revenue from 2006 before resurfacing in the MRA in 2009 as the Deputy

Commissioner General. He has to his credit and to the benefit of the MRA, many years of experience as well as a distinguished track record. He indeed has a lot of relevant experience to offer being one who has been privileged to be in all worlds of taxation (policy, administration, taxpayer). He is a graduate of the University of Malawi-Chancellor College and Harvard University where he got his Bachelors Degree and his Masters Degree in Public Administration respectively.

### Reforms and Modernisation

The MRA is continuing with its modernisation drive and currently learning from neighbours in the region and from beyond the seas to upgrade the quality of its administration. The Authority is particularly grateful to all countries that have welcomed its teams that are engaged in study visits to aid implementation of new systems like the Self-Assessment System and Turnover Tax for Income Tax, and the SAP ERP for support services. Implementing change is not easy and has to be done consciously and cautiously. The Authority is highly encouraged by the various experiences that have been shared by different administrations because the conclusion is always the same, "No matter how hopeless the situation may seem there is always light at the end of the tunnel". Thanks for not only sharing your successes, but also the challenges you are still struggling with. A problem shared is half-solved. We believe we will make faster progress as partners.

### Malaysia

**Country Correspondent:**  
**Mdm Ruedah Karim**



The 2010 Budget Speech was tabled in Parliament by the Rt. Hon. Prime Minister, Dato' Seri Mohd Najib Tun Abdul Razak on 23 October 2009. Focusing on the theme '1Malaysia, Together We Prosper', the speech laid down three strategies as the basis for proposing changes to encourage economic growth – first, driving the nation towards becoming a high-income economy; second, ensuring holistic and sustainable

development; and third, focusing on the well-being of the *Rakyat* (Malaysians).

The changes are aimed at increasing the disposable income of individuals and companies and boosting business and financing activities. The proposed incentives, listed below, are intended to spur economic recovery:

| Incentives                                                                         | Present Position                                                                                                                                                                                      | Proposed Amendments                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tax Incentives for Small and Medium Enterprises to Register Patents and Trademarks | Expenses incurred on the registration of patents and trademarks in the country are not allowed as deduction for purposes of income tax computation                                                    | Patent and registration expenses, including fees or payment made to patent and trademark agents, incurred in the registration of patents and trademarks in the country, will be allowed as a deduction for the purpose of income tax computation.<br><br>The proposal is effective from the Year of Assessment 2010 until the Year of Assessment 2014. |
| Individual Tax Relief on Broadband Subscription Fee                                | Currently, broadband subscription fees paid by employers for their employees are benefits in kind and are exempted from income tax.                                                                   | Tax relief on broadband subscription fees up to MYR500 per year will be given to individual taxpayers, effective from the Year of Assessment 2010 until the Year of Assessment 2012.<br><br>This is to further enhance the usage of broadband connection in the country.                                                                               |
| Extension and Expansion of Tax Incentives for Export of Financial Services         | In the 2007 Budget, banking institutions are given tax exemption on:<br><br>profits of newly established branches overseas; or<br>income remitted by new overseas subsidiaries.<br><br>The incentives | Incentives to promote the export of services of the banking, insurance and takaful sectors are :<br><br>the tax incentives given to banks be extended to insurance companies and takaful companies; the effective period for the 5-year tax                                                                                                            |

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|                                                                         | <p>are subject to the following conditions: applications to establish new branches or subsidiaries overseas must be submitted to Bank Negara Malaysia from 2 September 2006 until 31 December 2009; and the branches or subsidiaries have to commence operations within a period of 2 years from the date of approval by Bank Negara Malaysia.</p> <p>The tax exemption is given for a period of 5 years from the commencement of operations of the branches or subsidiaries.</p> | <p>exemption be given flexibility to be deferred from the date of commencement of operations to begin no later than the third year of operations; and the incentive is extended on condition that applications to establish new branches or subsidiaries overseas be received by Bank Negara Malaysia not later than 31 December 2015.</p>      |
| Extending Tax Exemption on Profits from Non-Ringgit Sukuk               | <p>Profits from non-Ringgit <i>sukuk</i> (bonds) approved by the Securities Commission and issued in Malaysia are given tax exemption from the year of assessment 2008. The above tax exemption does not cover profits from <i>sukuk</i> approved by Labuan Offshore Financial Services Authority</p>                                                                                                                                                                             | <p>Exemption on profits derived from the issuance of <i>sukuk</i> approved by the Securities Commission be extended to the issuance of <i>sukuk</i> approved by Labuan Offshore Financial Services Authority, effective from the Year of Assessment 2010.</p> <p>This is to encourage the issuance of non-Ringgit <i>sukuk</i> in Malaysia.</p> |
| Tax Incentives for Buildings Obtaining Green Building Index Certificate | <p>The Government has promoted the usage of green technology. Currently, tax incentives are</p>                                                                                                                                                                                                                                                                                                                                                                                   | <p>Incentives to promote green technology are :</p> <p>i. Owners of buildings awarded the GBI certificate be given tax</p>                                                                                                                                                                                                                      |

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|                                       | <p>given to companies to generate energy from renewable sources and also for energy conservation activities. With the purpose of encouraging the usage of green technology, the Government has launched the Green Building Index (GBI), a green rating index on environment-friendly buildings, which is based on certain criteria such as:</p> <p>i. energy and water efficiency;</p> <p>ii. indoor environmental quality;</p> <p>iii. sustainable management and planning of building sites in respect of pollution control and facilities for workers;</p> <p>iv. usage of recyclable and environment friendly materials and resources; and</p> <p>v. adoption of new technologies</p> | <p>exemption equivalent to 100% of the additional capital expenditure incurred to attain the GBI certificate. The exemption is allowed to be set-off against 100% of the statutory income for each year of assessment. The incentive is applicable for new buildings and upgrading of existing buildings. The incentive is given solely for the first GBI certificate issued in respect of the building.</p> <p>The proposal is effective for buildings awarded with GBI certificates from 24 October 2009 until 31 December 2014; and</p> <p>ii. Buyers of buildings and residential properties awarded GBI certificates bought from real property developers are eligible for stamp duty exemption on instruments of ownership of such buildings. The amount of stamp duty exemption is on the additional cost incurred to obtain the GBI certificate. The incentive is given only once to the first owner of the building.</p> <p>The proposal is effective for sales and purchase agreements executed from 24 October 2009 until 31 December 2014</p> |
| Extension of Tax Incentives Period to | <p>Expenses incurred in the promotion of Malaysia as an</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Double deduction incentive given on expenses to promote Malaysia</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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| <p>Promote Malaysia as International Islamic Financial Centre</p>                          | <p>International Islamic Financial Centre (MIFC) are given double deduction incentive for the purpose of income tax computation. This incentive is given for 3 years from Year of Assessment 2008 until Year of Assessment 2010. The expenses allowed as deduction are:</p> <p>market research and feasibility study; preparation of technical information relating to type of services offered; participation in an event to promote MIFC; maintenance of sales office overseas; and publicity and advertisement in any media outside Malaysia.</p> <p>These expenses are to be verified by the MIFC Secretariat.</p> | <p>as MIFC be extended until the Year of Assessment 2015.</p> <p>This will ensure Malaysia progresses significantly in the development of Islamic financial services.</p> |
| <p>Extending Tax Incentive on Expenditure to Establish Islamic Stock Broking Companies</p> | <p>Expenditure incurred prior to the commencement of an Islamic stock broking company is given an incentive in the form of a deduction for the purpose of income tax computation. The given incentive is subject to the condition that the company must commence</p>                                                                                                                                                                                                                                                                                                                                                   | <p>The application period is to be extended until 31 December 2015.</p> <p>This is to further promote the establishment of Islamic stock broking companies.</p>           |

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|                                                                                        | <p>its business within a period of 2 years from the date of approval by the Securities Commission. The incentive is effective for applications received by the Securities Commission from 2 September 2006 until 31 December 2009</p>                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>Extension and Expansion of Tax Incentives on the Issuance of Islamic Securities</p> | <p>Expenses incurred in the issuance of Islamic Securities approved by the Securities Commission are given incentive in the form of deduction for the purpose of income tax computation. The incentive is given from the Year of Assessment 2007 until the Year of Assessment 2010.</p>                                                                                         | <p>The incentive is widened to include securities approved by Labuan Offshore Financial Services Authority beginning from the Year of Assessment 2010. To further develop the Islamic financial securities market in Malaysia, the incentive is extended until the Year of Assessment 2015.</p>                                                                                                                                    |
| <p>Standardization of Tax Assessment System for Upstream Petroleum Companies</p>       | <p>Upstream petroleum companies are subject to income tax under the Petroleum (Income Tax) Act 1967, whilst downstream petroleum companies are subject to tax under the Income Tax Act 1967. Taxation of companies under the Petroleum (Income Tax) Act 1967 is based on:</p> <p>i. the preceding year assessment system where tax assessed in the current year is based on</p> | <p>The taxation of companies under the Petroleum (Income Tax) Act 1967 be changed to the:</p> <p>i. Current year assessment system; and<br/>ii. Self assessment system.</p> <p>To alleviate the burden of upstream petroleum companies from paying 2 years' taxes in 1 year, it is proposed that income tax for the Year of Assessment 2010 based on income received in 2009 be allowed to be paid by instalments for 5 years.</p> |

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|                                                         | <p>income received in the preceding year; and</p> <p>ii. the foMYRal assessment system undertaken by the Inland Revenue Board. However, the assessment system under the Income Tax Act 1967 was changed from the preceding year assessment system to current year assessment system from Year of Assessment 2000. Under this system, tax is assessed in the current year based on income received in the same year. In addition, the official assessment system was changed to self assessment system for companies from the Year of Assessment 2001 and for entities other than companies from the Year of Assessment 2004.</p> | <p>The proposal is effective from the Year of Assessment 2010.</p> <p>This is to standardize the nation's tax system and to ensure that the Government's cash flow reflects current economic performance.</p>                                            |
| <p>Review of Individual and Co-operative Income Tax</p> | <p>Resident individual income tax rates are progressive and range between 0% and 27%. In computing the tax, resident individual tax payers are allowed 17 types of tax reliefs including personal relief of MYR8,000 per year.</p>                                                                                                                                                                                                                                                                                                                                                                                               | <p>As a measure to ensure the individual income tax rates remain competitive and to increase the disposable income of Malaysians, the resident individual income tax be reviewed :</p> <p>i. personal relief be increased from MYR8,000 to MYR9,000;</p> |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|  | <p>Relief of MYR1,000 is also given on annuity premium purchased through EPF annuity scheme. Non-resident individuals are taxed at a fixed rate of 27%. Co-operative income tax rates are progressive and range between 0% and 27%. All co-operatives are given income tax exemption for 5 years from the date of registration. Cooperatives with members' fund less than MYR750,000 are given tax exemption indefinitely. In addition, dividends distributed by cooperatives to their members are exempted from tax.</p> | <p>ii. tax rate for chargeable income group exceeding MYR100,000 be reduced by 1 percentage point from 27% to 26%.</p> <p>To encourage savings for retirement, it is proposed that the existing personal tax relief of MYR6,000 on contribution to Employees Provident Fund and on life insurance premium be increased to MYR7,000. The increased relief amount of MYR1,000 is given solely on annuity scheme premium from insurance companies commencing payment from 1 January 2010. The increased relief amount is also applicable to additional premium paid on existing annuity scheme commencing payment from 1 January 2010. In order to streamline with the reduced income tax rates for resident individuals, it is proposed that:</p> <p>i. the tax rate for non-resident individuals be reduced by 1 percentage point from 27% to 26%; and</p> <p>ii. the co-operative income tax rate for chargeable income group exceeding MYR500,000 is reduced by 1 percentage point from 27% to 26%.</p> <p>The proposal is effective from the</p> |
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|                                                          |                                                              | Year of Assessment 2010.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tax Incentive for Knowledge Workers in Iskandar Malaysia | No tax incentive for knowledge workers in Iskandar Malaysia. | <p>The employment income of Malaysian and foreign knowledge workers residing in Iskandar Malaysia and working in qualifying activities is taxed at the rate of 15%. For this purpose, Malaysian and foreign knowledge workers are those approved by the Minister of Finance. The qualifying activities are as follows:</p> <ul style="list-style-type: none"> <li>i. green technology;</li> <li>ii. biotechnology;</li> <li>iii. educational services;</li> <li>iv. healthcare services;</li> <li>v. creative industries;</li> <li>vi. financial advisory and consulting services;</li> <li>vii. logistics services; and</li> <li>viii. tourism.</li> </ul> <p>The incentive is for knowledge workers who apply and commence employment in Iskandar Malaysia between 24 October 2009 and 31 December 2015.</p> <p>This is to boost development in the Iskandar region and to further the country's move towards a high-income economy.</p> |

## Malta

### *Country Correspondent: Mr Patrick Mifsud*

The Budget for 2010 has introduced a number of new measures. The following are the measures of general interest.

#### **Property Anti-Abuse Provisions**

A number of anti-avoidance provisions have been introduced targeting abuse in the property market. The provisions reduce the possibility of tax avoidance when transfers of shares or the issue of new shares actually constitute transfers of the underlying property owned by the companies in which the shares are held. The provisions also reduce the possibility of abusing certain exempt intra-group transfers of property.

#### **Administrative Changes**

A number of administrative amendments have been introduced to improve compliance. The Inland Revenue Department and the VAT Department will not issue refunds to taxpayers who have any outstanding returns to be filed with either or both departments. When the default is subsequently rectified, refunds can be issued within 12 months without the payment of interest. This measure underlines Government's intention to streamline processes common to the departments that fall within the remit of the Ministry of Finance, the Economy and Investment.

Trade books and other documents that are not produced during the treatment of objection stage will not be considered at appeal stage. Before this amendment was introduced the Board of Special Commissioners took into consideration documents that a taxpayer was required but did not produce at objection stage. This measure should increase the level of cooperation by taxpayers at objection stage and may also lead to a decrease in the number of cases referred to the Board of Special Commissioners.

#### **Tax Credits for Micro-Enterprises**

Government has launched fiscal incentives targeting micro enterprises and self-employed individuals in the context of the global economic

recession. The incentive is in the form of a tax credit equivalent to a percentage of eligible investment.

### **Personal Development**

Deductions in respect of fees paid shall be allowed to persons pursuing tertiary education. This incentive is not limited to any particular industry.

Tax credits have also been made available to encourage specialisation in the areas required by industry. This incentive is available to support individuals who embark on personal development on their own initiative and can be provided on approved certifications, degrees or post-graduate degrees that are awarded to students on the successful completion of an approved course.

### **Measures to Increase Female Participation in the Workforce**

Government is committed to increasing the number of women forming part of the workforce as evidenced by the fiscal incentives introduced in recent years.

One of the amendments introduced by the budget for 2010 is the granting of a deduction up to a maximum of €1,000 for payment of fees for the services of childcare in respect of children who have not yet attained the age of 12 years.

### **Research and Development & Innovation**

The University of Malta has set up the Malta University Research, Innovation and Development Trust Fund with the aim of encouraging research at the University and to help in its use for commercial and industrial purposes. Donations of not less than 150 euro and not more than 50,000 euro shall be allowed as a deduction from the taxable revenue of the donor.

A substantial incentive for persons and entities undertaking research leading to patents covering their inventions shall consist in a tax exemption from royalties and similar revenue (capped at a maximum amount) resulting from patents on inventions which qualify under the parameters established in the context of Government's economic and industrial policy.

## **Double Taxation Agreements**

Malta continued to extend its network of Double Tax Agreements and three further such agreements were signed and enacted. These three agreements are with Montenegro, Qatar and Georgia.

### **Nigeria**

*Country Correspondent:  
Mr Malik Tukur*



### **The National Tax Policy for Nigeria (Summary)**

On the 20<sup>th</sup> of January 2010, the Federal Executive Council of Nigeria ratified the National Tax Policy of Nigeria. Below is the full text of the documents. For the purpose of space management, it may be grouped or broken down into chapter by chapter. It is a historical document that marks a threshold in the Nigerian Tax System. It consists of 8 sections namely:

1. Overview;
2. Overriding philosophy;
3. Guiding Principles for Stakeholders;
4. Taxation as a Tool for Wealth Creation and Employment;
5. Tax Administration;
6. Fiscal Dispute Resolution (Appeal) Mechanisms;
7. Institutionalising Tax Culture in Nigeria; and
8. Conclusion.

Details of the Sections of the National Tax Policy document for Nigeria are outline below while more information can be derived from our websites: <http://www.firs.gov.ng> or <http://www.fmf.gov.ng>

1. Overview
2. Overriding Philosophy
  - 2.1 Definition of Taxation and Revenue and Importance of Taxation in Revenue Generation
  - 2.2 Distinction between Revenue and other components of Revenue

- 2.3 Sustainable Development and Healthy Competition as the overriding Philosophy of the National Tax Policy
- 2.4 The Role of Fiscal Federalism
- 2.5 Objectives of the Nigerian Tax System
- 2.6 Features of the Nigerian Tax System
- 3. Guiding Principles for Stakeholders
  - 3.1 The Executive Arm
    - (a) Presidency
    - (b) Federal Executive Council in general and the Ministries of Finance Education and Information in Particular
    - (c) National Economic Council
    - (d) National Council of States
    - (e) State Governors
    - (f) State Executive Council in general and the Commissioners of Finance, Education and Information in particular
    - (g) Local Government Chairmen
    - (h) Local Government Councils
  - 3.2 Legislative Arm
    - (a) National Assembly
    - (b) State Houses of Assembly
  - 3.3 Judiciary
  - 3.4 Tax Authorities
  - 3.5 Joint Tax Board
  - 3.6 Tax Payers
  - 3.7 Professional Bodies, Tax Practitioners and Consultants
  - 3.8 Relationship between Stakeholders
- 4. Taxation as a Tool for Wealth Creation and Employment
  - 4.1 The role of taxation in Wealth Creation and Employment
  - 4.2 Variation of Tax Rates in Response to Economic Developments
  - 4.3 Shift from Direct to Indirect Taxation for Economic Growth
  - 4.4 Special Arrangements to Attract Investments:
    - (a) Tax Free Zones
    - (b) Tax Incentives
    - (c) International and Regional Treaties
    - (d) Creating a Competitive Advantage
- 5. Tax Administration
  - 5.1 Intelligence and Information Gathering
  - 5.2 Registration of taxable persons
  - 5.3 Filing and Returns Processing
  - 5.4 Payment Processing and Collection
  - 5.5 Record Keeping
  - 5.6 Audit and Investigation
  - 5.7 Enforcement of Tax Laws (Evasion and Avoidance)
    - a. Rewards for Compliance
    - b. Sanctions for Non-compliance
  - 5.8 Operation and Funding for Tax Refunds

- 5.9 Automation of Processes
- 5.10 Accounting for Tax Revenue Collected
- 6. Fiscal Dispute Resolution (Appeal) Mechanisms
  - 6.1 Between Federal and State Governments
  - 6.2 Between State Governments
  - 6.3 Between State and Local Governments
  - 6.4 Between the Executive and Legislature
  - 6.5 Between the Executive, Legislature and Judiciary
  - 6.6 With Taxpayers
- 7. Institutionalising Tax Culture in Nigeria
  - 7.1 Overview and Philosophy
  - 7.2 Concept of the Unique Taxpayer Identification Number
  - 7.3 Institutions to drive Tax Administration and Tax Policy
    - (a) Ministries of Finance
    - (b) Revenue Authorities (Autonomy, funding, Structure, Processes, Automation, Staffing, Capacity Building etc)
    - (c) Academia / Educational Institutions
    - (d) National Assembly
    - (e) Auditor General's Office
  - 7.4 Elimination of bottlenecks and leakages in the System
  - 7.5 Identification of Governments' Revenue that are presently not being collected
  - 7.6 Accountability for Tax and Other Revenue collected
  - 7.7 Utilisation of tax revenues collected and manner of communication to the tax payer
- 8. Conclusion

The conclusion was that overall, it is expected, that this document shall provided a set of guiding principles for taxation in Nigeria. It shall provide a stable point of reference for all stakeholders in the tax system to subscribe to and a standard to which they shall be held accountable. It is therefore expected, that this National Tax Policy shall provide a platform for realizing Nigeria's overall developmental goals utilising the tax system as the much need catalyst.

## **Pakistan**

***Country Correspondent:***  
***Mr Abdul Rashid***

### **Pakistan – Greece Tax Treaty Negotiations**

Two-member Pakistan tax delegation comprising of Mr. Asrar Raouf, Member Policy (Direct Taxes) and Mr. Saeed-ur-Rahman, Chief

(International Taxes), Federal Board of Revenue, Islamabad visited Greece from 23<sup>rd</sup> to 27<sup>th</sup> November, 2009 to hold second round of negotiations on the Treaty for Avoidance of Double Taxation and Prevention of Fiscal Evasion. The Greek delegation was headed by Mr. George Kounadis, Directorate of International Economic Relations, Ministry of Economy and Finance and team members comprised of Mr. Polymenopoulos Alexandros, Ms. Kapassaki Georgia and Ms. Karatza Tatiana. The two sides negotiated the treaty in an atmosphere of mutual understanding and accommodation, which is expected to be signed soon after completion of formalities.

## Singapore

**Country Correspondent:**  
*Ms Angeline CHAN*



### **Singapore to Host 2010 Global Forum on Transparency and Exchange of Information for Tax Purposes**

Singapore will host the Global Forum on Transparency and Exchange of Information for Tax Purposes in September 2010. The meeting will be the first for the Global Forum after its constitution as a self-standing body in September 2009 and will review the preliminary outcomes of the peer review process and the progress made over the past one year.

The Global Forum comprises more than 90 jurisdictions and is responsible for assessing and monitoring the effective implementation of the internationally agreed Standard for exchange of information for tax purposes across jurisdictions through peer reviews. Singapore is Vice-Chair of the Global Forum's Peer Review Group.

### **New Tax Framework for Corporate Amalgamations**

The introduction of a new tax framework for corporate amalgamations was announced in Budget 2009 to facilitate mergers and

consolidations of companies in Singapore by minimizing the tax consequences arising from amalgamations. The new tax framework recognizes the consequences as provided in the Companies Act or the Banking Act for corporate amalgamations and gives effect to by aligning the tax treatments for such amalgamations. IRAS has published an e-Tax guide "Tax Framework for Corporate Amalgamations" to provide details on the new tax framework. The e-Tax guide can be accessed via [http://www.iras.gov.sg/irasHome/uploadedFiles/Quick Links/e-Tax Guides/Business and employers/Tax%20Framework%20for%20Corporate%20Amalgamations%20\(1st%20edition\).pdf](http://www.iras.gov.sg/irasHome/uploadedFiles/Quick Links/e-Tax Guides/Business and employers/Tax%20Framework%20for%20Corporate%20Amalgamations%20(1st%20edition).pdf).

### **E-Tax Guide on Property Tax Treatment of Contributions to Management Fund and Sinking Fund**

IRAS has published an e-Tax guide to explain the property tax treatment of contributions to Management Fund and Sinking Fund for determining the Annual Value of strata-titled properties. Owners of strata-titled properties collectively own common property such as lifts, clubhouse, swimming pool and tennis court, and make contributions to the Management Fund and Sinking Fund for maintaining the common property. IRAS currently includes the contribution to the Sinking Fund but excludes the contribution to the Management Fund in determining the Annual Value of strata-titled properties. The e-Tax guide explains why IRAS will continue with the practice of including the Sinking Fund in determining the Annual Value of strata-titled properties. The e-Tax guide can be accessed at

<http://www.iras.gov.sg/irasHome/uploadedFiles/Quick Links/e-Tax Guides/Property/PT%20-%20Treatment%20of%20Contributions%20to%20OMF%20and%20SF.pdf>.

### **Singapore's Network of Tax Treaties**

Singapore has joined the Organisation for Economic Co-operation and Development white list of jurisdictions that have substantially implemented the Standard on the effective exchange of information (EOI) for tax purposes with the signing of a revised Avoidance of Double Taxation Agreement (DTA) with France. The revised DTA with France is the 12<sup>th</sup> DTA which Singapore has signed with other tax jurisdictions

that incorporates the Standard on EOI. Since then, Singapore has signed protocols to incorporate the Standard with Brunei, Finland, Japan and Malta. DTAs incorporating the Standard had also been signed with Georgia and Slovenia. The full text of the DTAs and protocols with the various tax jurisdictions can be accessed via the IRAS website at [www.iras.gov.sg](http://www.iras.gov.sg)

### **IRAS Awarded President's Social Service Award 2009 (Formal Group)**

IRAS had been awarded the President's Social Service Award 2009 (Formal Group). The President's Social Service Award is a highly prestigious award that is conferred by the office of the President of the Republic of Singapore to honour and recognize outstanding voluntary contributions made to the social service sector.

IRAS has been embracing the community involvement spirit, regularly injecting a community involvement flavour into our major corporate events. We also have a Community Involvement Committee which promotes community involvement and volunteerism among staff. We work with other social service agencies on several fronts and collaborate with various stakeholders in our social responsibility efforts targeting youths, education and the environment.

## **United Kingdom**

*Country Correspondent:  
Ms Angelia Burke*

### **Tax Information Exchange Agreements signed 18 January 2010**

Tax Information Exchange Agreements (TIEAs) between the UK and the four Organisation of Eastern Caribbean States of Antigua and Barbuda, St Christopher and Nevis, St Lucia and St Vincent and the Grenadines were signed in London on 18 January by Stephen Timms MP, Financial Secretary to the Treasury and the four countries' respective High Commissioners, their Excellencies Dr Carl Roberts, Mr James Williams, Mr Eldridge Stephens and Mr Cenio E Lewis.

The new TIEAs with these four OECS countries provide for comprehensive exchange of information to the OECD and international tax standard in respect of taxes of every kind and description.

The texts of the TIEAs may be accessed on the HMRC website at:

- <http://www.hmrc.gov.uk/international/antigua-barbuda.pdf>
- <http://www.hmrc.gov.uk/international/st-christopher-nevis.pdf>
- <http://www.hmrc.gov.uk/international/st-lucia.pdf>
- <http://www.hmrc.gov.uk/international/st-vincent-grenadines.pdf>

### **Treasury Minister calls for an end to offshore tax evasion**

On 7 January, HMRC announced that Treasury Minister Stephen Timms called offshore tax evasion "morally unacceptable" as HM Revenue and Customs' announced that some 10,000 people had notified their intention to disclose previously undeclared offshore income and gains. Those who came forward under the new disclosure opportunity before the 4<sup>th</sup> January deadline now have to disclose and pay any unpaid tax, interest and a ten per cent penalty.

HMRC is now receiving data on offshore accounts requested from over 300 banks. It is using this to identify those who should have come forward but have chosen not to. Enquiries will be started into those cases.

The Right Honourable Stephen Timms, Financial Secretary to the Treasury, said:

"Hiding money in offshore accounts to evade tax is economically and morally unacceptable. It robs public services of funding and places an unfair burden on the honest majority of taxpayers.

"Some people will still be tempted, and that is why the Government will bring forward measures during 2010 to build on the significant progress made both in the UK and globally during 2009 in closing down offshore tax evasion for good."

Dave Hartnett, HMRC's Permanent Secretary for Tax, said:

"Now the New Disclosure Opportunity (NDO) is closed, HMRC is beginning the job of using the data we have obtained from banks to identify people who have not made disclosures despite having hidden their money offshore. We are starting our investigations and penalties can be up to 100 per cent of the tax not paid. But it's very important to remember that, when someone comes

forward voluntarily, the penalty is always lower than when we catch the evader. This means it's still well worth contacting HMRC if you have undisclosed offshore accounts.

We are also examining information about offshore accounts in order to help us identify intermediaries who have assisted UK residents in hiding money offshore."

**Medical professionals are being encouraged under a new Tax Health Plan to tell HM Revenue & Customs (HMRC) if they have understated income.**

Those who contact HMRC by 31 March 2010 to make a voluntary disclosure will be able to put their tax affairs in order simply and on the best available terms.

After that date, using information it holds about how much is paid to them, HMRC will carry out targeted investigations aimed at medical professionals who have not come forward. Substantial penalties or even criminal prosecution could follow for those who have undeclared tax liabilities.

The Health Plan is the first initiative in a new HMRC campaign focused on professionals. It is designed to make it easy for customers to put their tax affairs right and keep them that way.

**New ways to stop people from entering the hidden economy and to help people out it will be examined by a newly formed group of experts.**

In January HM Revenue & Customs (HMRC) announced new ways to stop people from entering the hidden economy and to help people out it will be examined by a newly formed group of experts. The Hidden Economy Advisory Group is formed from independent experts and chaired by HMRC to take a fresh look at what can be done to reduce the hidden economy.

Mike Eland, chair of the group and Director General of Enforcement and Compliance in HMRC said:

"We estimate that the hidden economy contributes to around 7.5% of the net tax gap, which means we could be losing in the region of £3bn a year

from people who are living and working in the hidden economy. They also gain an unfair competitive advantage over businesses that pay their taxes. This new group of experts with a variety of experience will identify new practical steps to tackle this problem."

"By understanding the behaviours, attitudes and circumstances of those working in the hidden economy, we will be able to identify the right mix of incentives and deterrence to encourage them to move into the formal economy and stay there – even when times are tough".

The Advisory Group will

- examine the main barriers to someone in the hidden economy joining the formal economy, and recommend workable measures that might be introduced to remove or reduce those barriers
- examine the motivations and behaviours that lead people to join the hidden economy, and make recommendations as to what HMRC can do to prevent and stop this.

The new Hidden Economy Advisory Group was announced as part of the 2009 Pre-Budget Report. It will present initial findings in time for Budget 2010.