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# CARICOM tax harmonization


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Good morning ladies and gentlemen. Are you all feeling happy? Well – smile. If the previous speaker thought that it was perverse to be discussing international accounting standards on a Saturday morning, I am afraid that it is even more perverse to be discussing tax.

The draft CARICOM protocol on tax harmonisation does not cover full harmonization of the tax legislation, nor or even of tax rates, what it does cover is 10 specific areas, namely:

1. Capital allowances
2. Interest
3. Losses
4. Pensions
5. Insurance premium tax
6. Minimum corporation tax
7. Mergers and splitters
8. Disposal and acquisition of assets
9. Agreements for extra-regional financing with implications for withholding taxes
10. Exploration and research expenses

This morning I will outline these areas and I will then compare the provisions in these ten areas as they currently stand in the relevant income tax legislation of 5 CARICOM territories - Barbados, Trinidad & Tobago, Antigua, St. Lucia and Jamaica.

## Article I - Capital allowances

Article 1 of the protocol provides for capital allowances on pooled assets. There are 4 general pools for plant and machinery and 2 for buildings depending upon the useful life of the assets:

With respect to plant and machinery, Class A, the 10% class, will be for assets with a useful life of 10 years or more. Class B, the 25% Class, will be for those with a useful life of 4 to 10 years. Class C, the 50% class, will be for those with a useful life of 2 to 4. Class D, the 100% class, will be for those with a useful life of less than 2 years.

In terms of buildings, there will be two classes, Class E, the 1% class, for buildings with a useful life of 50 years or more and Class F, the 2% class, for buildings with a useful life of less than 50 years.

# CARICOM tax harmonisation

**Barbados**

The Barbados Income Tax Act grants capital allowances on capital expenditure incurred on certain assets by persons carrying on a trade, profession or business depending on the specific type of expenditure.

An initial allowance of 20% or 40% is granted in the fiscal year during which the expenditure is incurred. Annual allowances are granted in each fiscal year, provided the asset is in use for the purposes of the trade, profession or business at the end of that fiscal year. The rates for specific assets are set out in the regulations to the Income Tax Act, but where a particular asset is not listed, the rate to be used is whatever is reasonable and represents the wear and tear on the plant and machinery.

Annual allowances may also be claimed at a rate of 10% on 50% of the cost of intellectual property.

Investment allowances are granted in lieu of initial allowance in the fiscal year in which expenditure is incurred on certain assets which qualify for these allowances at rates of 20% or 40%. However unlike all other allowances granted, an investment allowance does not reduce the tax written down value of the asset.

The only buildings, though, that qualify for capital allowances are those which are certified as industrial buildings.

In addition to these allowances, as an incentive granted to the manufacturing industry several years ago, manufacturing entities may also claim manufacturing allowances on plant and machinery equal to 50% of their normal annual allowances.

**Trinidad & Tobago**

In Trinidad capital allowances are calculated on the reducing balance basis, but specific rates also apply to different classes of assets for example:

1. 10% applies to class A assets such as light office equipment;
2. 25% applies to class B assets such as motor vehicles and manufacturing equipment;
3. 33% applies to class C assets such as computers and heavy agricultural equipment; and
4. 40% applies to class D assets such as Aircraft

Manufacturing entities also qualify for a 60% initial allowance on the cost of plant or machinery used in their manufacturing concerns.

# CARICOM tax harmonisation

**Antigua**

Similarly in Antigua, annual allowances may be claimed on the reducing balance in respect of buildings or plant and machinery employed in or for the production of income for that income year computed in accordance with the rates determined by the Inland Revenue Department. In addition to annual capital allowances, a building or a structure used for industrial purposes or plant or machinery used for the purposes of that trade or undertaking can qualify for a 20% initial allowance on the cost of the building or the plant or machinery in the year it is first put into use.

The total amount of wear and tear allowance in respect of plant and machinery shall not exceed the total cost of that item at the date of acquisition.

**St. Lucia**

In St. Lucia, the basis for computing capital allowances and the rates that are applicable to the different categories of assets, are set out in Schedule 2 to the Income Tax Act. This schedule segregates the assets into 40 different.

Capital allowances are computed on the declining balance basis on all qualifying additions purchased and brought into use during the year. An initial allowance of 20% is allowed on qualifying additions purchased during the income year, whereas annual allowances are computed on all qualifying additions purchased and brought into use during the year.

Annual allowances can be claimed on industrial and agricultural buildings at a rate of 5% and commercial buildings at a rate of 2.5%, but not on hotels, residences and rental properties.

Annual allowances on the other 39 categories range from 10% to 33 1/3%; and the Comptroller is authorized to allow the application of a higher rate where reasonable in the circumstances.

**Jamaica**

The system of capital allowances in Jamaica is similar to that in Barbados, with initial allowances, annual allowances and investment allowances.

Special capital allowances are also granted in respect of new machinery acquired by a qualifying business at 50% per annum in the fiscal year the expenditure is incurred and in the next succeeding year (in lieu of any other capital allowances).

Special annual allowances are granted in respect of expenditure on certain machinery and plant used in a factory (in a production process for more than two shifts per day) within qualifying industries (as defined) at the same percentage as the applicable annual allowance.

Other allowances are also granted in respect of capital expenditure on patents, scientific research, oil wells or mines. To date Jamaica has not introduced legislation to facilitate tax relief for capital expenditure on other intellectual property or intangible assets.

In the case of plant and machinery (excluding vehicles), the rate of wear and tear allowance is determined by reference to either a list of rates approved by the Commissioner of Taxpayer Audit and Assessment Department; or by reference to a prescribed formula to determine the appropriate percentage (to the satisfaction of the Commissioner) upon making an election.

## Article II - Interest

The second article to the protocol provides for a deduction of interest on a loan for the acquisition of "capital" to be used in or for the production of chargeable or assessable income. However, it also provides that where the interest is not paid within two years with respect to arms length transactions, and one year with respect to non-arms length transactions, the interest shall be added back in the year the deduction was taken.

### Barbados

The legislation in Barbados with respect to deducting interest for tax purposes is similar to the proposed protocol, except that the add back occurs after the end of the one- or two-year period.

### Trinidad

In the case of Trinidad & Tobago, on the other hand, interest may be deducted in arriving at the chargeable income/profits of a person if: it is wholly and exclusively incurred in the production of that person's taxable income, it is either taxable or exempt from tax in accordance with TT legislation; and any withholding tax due on that interest has been accounted for.

# CARICOM tax harmonisation

**Antigua**

Over in Antigua, interest may be deducted in arriving at the chargeable income/profits, where the Commissioner is satisfied that the interest was paid on capital employed in acquiring the income, but provided that such interest is paid only to banks and financial institutions licensed under the Financial Institutions (Non-Banking) Act on loans borrowed at commercial rates and terms.

Interest on any loan paid to owners, shareholders, directors, spouses and children of shareholders and directors or close family members or to any related party is not deductible for tax purposes in Antigua.

**St Lucia**

The St. Lucia legislation permits a specific deduction for any expenditure incurred during the year of income by way of interest on any loan made to a person, including interest payable on debentures, to the extent that the Comptroller is satisfied that the amount of such loan was used by that person for the purpose of producing assessable income.

However, the legislation also contains a restriction on deducting interest whereby, with respect to a controlled company, the Comptroller may disallow any interest on a loan which is paid or payable to a shareholder or any associate of a shareholder which, in the opinion of the Comptroller is excessive in amount, having regard to the duties performed or the rate of interest payable on such loan.

**Jamaica**

As a general rule, Jamaican tax law permits a tax deduction in respect of expenses wholly and exclusively incurred for the purposes of acquiring income. The Income Tax Act specifically provides that this includes interest paid upon any money borrowed that was used on capital employed in acquiring the income. Although a matter of some debate, Jamaican law does not appear however to require that the related income must constitute chargeable (i.e. taxable) income. Where the interest is paid to a non-resident, then the tax deduction is conditional upon satisfying any associated withholding tax obligations.

As tax relief is generally granted on a paid basis, there is no time limit within which the interest must be paid. In practice, interest earned/incurred by financial institutions is dealt with on an accruals basis so the time limits suggested may be of some relevance.

## Article III - Losses

The third Article of the protocol deals with losses and provides that losses can be offset against income from other sources and that they will have an indefinite carry forward period. However there will be a restriction on the utilisation of losses brought forward to 50% of taxable income.

### Barbados

In Barbados, tax losses incurred, other than from residential properties, may be offset against income from any source during the year in which the losses are incurred. They can also be carried for nine income years after the year in which they were incurred and there is no restriction on offsetting them against profits earned in future income years, other than with respect to profits and losses from rental of residential properties.

There is also provision in the Barbados Income Tax Act for the offsetting of losses, excluding capital allowances, incurred by one company in a group against the profits earned by another company in the same group - known as Group relief.

### Trinidad

Over in Trinidad & Tobago, losses incurred in an income year may be applied in that year against income from other sources (other than income from employment or profession). Any losses remaining may be carried forward indefinitely and applied without limit to reduce the chargeable income/profits for subsequent income years.

### Antigua

Losses incurred in Antigua in an income year may be applied in that year against income from other sources. Any remaining losses may be carried forward and set-off against the income of that person for the next six assessment years.

Losses carried forward cannot be used so as to reduce the chargeable income of that person for any year of assessment to less than one half of the amount which would have been his chargeable income had the set-off not been made.

### St. Lucia

In St. Lucia, losses from a trade, profession or vocation in an income year shall be allowed as a deduction against other income (except exempt income) in that year. Any unutilized losses can be carried forward and applied against 50% of the chargeable or assessable income of subsequent years.

Losses can be carried forward and applied against chargeable or assessable income up to 6 years following the year of the loss and are not allowable if the business was not carried on on a commercial basis. There is also a provision for applying the losses of one company in a group against the income of another company in the same group, in very restrictive circumstances.

**Jamaica**

Jamaican tax law permits a tax deduction for the amount of any loss sustained in a trade, profession or business carried on in Jamaica (or in the ownership or occupation of any land situated in Jamaica) which, if it had been profit, would have been assessable under the Income Tax Act during the year of assessment or previous years of assessment.

There are currently no restrictions in terms of quantum or time-limit for carry-forward of losses. The Minister of Finance & Planning had proposed to introduce a 5 year restriction on their use but this has not been implemented to date.

In none of the five territories reviewed are there provisions for losses to be carried back.

## Article IV - Pensions

Article 4 of the protocol provides for an employer, who establishes a fund for the provision of pensions or annuities, to apply to the competent authority for the approval of such fund as specified in the relevant Act. It also provide for amounts paid into an approved fund to be allowed as a deduction for tax and that no deduction shall be allowed in respect of any amount paid as pension from current revenues.

**Barbados**

Under the Barbados Income Tax Act contributions paid to a retirement plan that is registered with the revenue authorities are deductible for tax purposes. However, deductions for such contributions by the employee and employer combined cannot exceed 15% of the pensionable emoluments of the employee for the income year. Lump sum contributions for past service must be deducted for tax purposes over a period of not less than 10 years.

# CARICOM tax harmonisation

### Trinidad

In the case of Trinidad, any employer establishing a fund for the provision of pensions or annuities for employees must apply to the revenue authorities for the approval of such fund in accordance with the provisions of that Act. Where the fund is approved, the amounts paid into the fund shall be allowed as a deduction in accordance with the provisions of the Income Tax Act. However, as with Barbados, lump sum contributions for past service must be deducted for tax purposes over a period of not less than 10 years.

### Antigua

The Antigua ITA makes allowance for the deduction of pensions paid in relation to an approved pension plan. Although there is no specific limit on the pension expense deductible by a company in the ITA, the Commissioner has made attempts in the past to limit the amount of pension expense being deducted using certain general provisions such as its contribution to the income generated by the company.

### St. Lucia

Contributions to pension plans by an employer are deductible for tax purposes in St. Lucia, provided that the plan has been approved by the Comptroller of Inland Revenue. Once the plan is approved, there is no limit as to the deduction of the amounts paid into the plan, except for special payments made to the plan. Individuals are not allowed any deduction or allowance in respect of pension amounts paid from current revenues.

### Jamaica

Over in Jamaica, the Commissioner may approve a superannuation fund provided that it meets specified criteria. Ordinary annual contributions by either an employer or employee to an approved superannuation fund are tax deductible up to a maximum of 10% of the employee's remuneration.

## Article V - Insurance premiums tax

Article V of the protocol provides for an insurance company operating in a Member State, to be levied an Insurance Premium Tax at an undetermined rate percent of premium income (namely, the gross premiums) of such a company.

# CARICOM tax harmonisation

**Barbados**

In Barbados, resident and foreign life insurance companies are charged premium taxes at a rate of 5% on most gross direct premium income, the exception being renewal business of resident life insurance companies which is subject to premium tax at a rate 3%.

Resident and foreign general insurance companies are charged premium taxes at a rate of 3.75% of the gross direct premium in respect of property insurance business and 3% of the gross direct premium of other general insurance business.

A resident insurance company is defined as a company incorporated in Barbados with not less than 51% of its paid up capital owned by persons resident in Barbados, or such other company incorporated in a member country of CARICOM. The premium income on which tax is payable is defined as gross premiums less refunds and less premiums received or paid in respect of reinsurances.

**Trinidad**

In Trinidad & Tobago, property insurance premiums payable in respect of local risks are subject to insurance premium tax at a rate of 6%. Where the insurer carries on business in Trinidad & Tobago, the responsibility for accounting for the tax rests on the insurer. However, where the insurer is a non-resident person the payer of the premium is required to withhold and account for the tax.

**Antigua**

On the other hand, in Antigua, life insurance premium tax of 3% is levied on the premiums (net of agent’s commission) of all life insurance companies, whether resident or non-resident.

Similarly, general insurance premium tax of 3% is levied on the premiums, excluding motor business (net of agent’s commission), of all general insurance companies whether resident or non-resident.

**St. Lucia**

Over in St. Lucia, the rates of insurance premium tax for life insurance businesses are 1.5% or 3% for a resident or foreign insurance company respectively. In the case of general insurance businesses, the rates are 3% for a resident insurance company and 5% for a foreign insurance company.

# CARICOM tax harmonisation

As in Barbados, a resident insurance company is defined as a company incorporated in St. Lucia with not less than 51% of its paid up capital owned by persons resident in St. Lucia, or such other company incorporated in a Member State of CARICOM. The premium income on which tax is payable is defined as gross premiums less refunds and less premiums received or paid in respect of reinsurances.

**Jamaica**

In Jamaica, life assurance companies are subject to premium tax at a rate of 3% for regionalized companies or 4% for non-regionalised companies on gross premiums, but general insurance companies are not subject to premium tax.

## Article VI - Minimum Corporation Tax

Article VI of the protocol deals with minimum corporation tax, but appears to leave the decision on this to the individual Member States. It provides for a tax at an undetermined rate on the gross receipts of a company for each year of income which may be used as a credit to final corporation tax liability for that particular year. However, it also provides that the minimum corporation tax shall not be refundable and shall not be carried forward to future liability.

**Barbados/Antigua/St. Lucia/Jamaica**

At the moment, there is no minimum corporation tax legislated in Barbados, Antigua, St. Lucia or Jamaica.

**Trinidad**

The closest tax to a minimum tax in Trinidad and Tobago is the Business Levy, payable at the rate of 0.2% on gross sales and receipts.

However, this tax does not apply to:

1. persons whose employment income exceeds 75% of their total income;
2. income earned during the first three years from the date of incorporation of a company, or date of commencement of activity of any other person;
3. income exempt from corporation tax; or
4. persons whose gross receipts do not exceed TT$200,000 in the income year.

Persons are required to pay business levy if, and to the extent that, it exceeds their income/corporation tax liability in any income year.

# CARICOM tax harmonisation

## Article VII - Mergers and Splitters Division

Article VII of the protocol deals with mergers and splitters and provides that where there has been a change of more than 50 per cent in the underlying ownership or control of a company, and:

(i) where conditions obtain which are consistent with tax avoidance; or
(ii) where there is a change in the nature of the business,

any losses which exist at the time of the transaction shall not be carried forward.

**Barbados**

At the moment there is no restriction in the Barbados Income tax Act on the set off of tax losses brought forward where ownership of a company has changed.

**Trinidad**

In Trinidad, on the other hand, where there has been a change of more than 50 per cent in the underlying ownership or control of a company, losses incurred by the company may not be carried forward and offset against future profits unless the revenue authorities are satisfied that the change in shareholding did not take place for tax avoidance purposes.

**Antigua**

In Antigua, as in Barbados, there is currently no restriction on the set off of tax losses brought forward where ownership of a company has changed.

**St. Lucia**

There is no provision under the St. Lucia Income Tax Act for the restriction or cancellation of available losses of a company as a result of a change of more than 50% in the underlying ownership or control of the company, where conditions obtain which are consistent with tax avoidance, or where there is a change in the nature of the business.

**Jamaica**

The Jamaica Income Tax Act provides that if:

1. within any period of three years there appears to the Commissioner to be both a change in the control of the body corporate and, either earlier or later in that period or at the same time. a major change in the nature or conduct of a trade or business carried on by it, or

2. at any time after the trade or business carried on by it has become small or negligible and before any considerable revival of the trade or business, there appears to the Commissioner to be a change in the control of the body corporate,

the Commissioner may prevent losses arising prior to the change of control from being used to shelter income or profits arising after the change of control.

## Article VIII - Disposal and Acquisition of Assets

Article VIII of the protocol deals with the disposal and acquisition of assets and provides that where pursuant to the amalgamation, reconstruction or merger of a company with another company,

(a) assets are disposed of or acquired other than by way of a transaction at arms length, the asset shall be deemed to have been disposed of or acquired at market value; and
(b) where the assets are disposed of or acquired at arms length the written down value shall apply.

**Barbados**

In Barbados, there are currently no similar tax provisions in existence. The closest provision would be where there is a succession of a business, the proceeds on disposal of depreciable property are deemed to be the tax written down value for tax purposes.

In addition, where a transaction between related parties does not take place at arms' length, the Barbados revenue authorities may impose market value, or otherwise ignore the transaction or any element of it, where they believe that the transaction is artificial and designed for the purpose of reducing a taxpayer's assessable income.

**Trinidad**

In Trinidad, there are currently no specific tax provisions in existence regarding disposal and acquisition of assets on an amalgamation or merger.

However, the revenue authorities may impose market value, or otherwise ignore a transaction or any element of it, in any circumstance where they are of the view that the transaction is artificial or fictitious and designed for the purpose of avoiding tax.

**Antigua**

Over in Antigua, there are also no specific provisions regarding disposal and acquisition of assets on an amalgamation or merger. However, as in Trinidad, where their has been an amalgamation or merger of one company with another, the revenue authorities may also impose market value, or otherwise ignore a transaction or any element of it, in any circumstance where they are of the view that the transaction is artificial or fictitious and designed for the purpose of avoiding tax.

**St. Lucia**

The St. Lucia Income Tax Act does not have specific provisions dealing with amalgamations, reconstruction or mergers. However, the Second Schedule to the Act provides general rules on disposals and acquisitions.

Based on this, where assets are disposed of or acquired, pursuant to amalgamations, reconstruction or mergers, other than by way of a transaction at arms length, the act does not deem the value to be at market value, except where the disposal or acquisition involves an exchange of assets, gifts, or compulsory acquisitions.

In addition, under the general anti-avoidance provisions in the Act, the Comptroller may determine whether any additional gains or profits should be deemed to be assessable in non-arms length transactions, in particular with non-resident parties. Where assets are disposed of or acquired at arms length, pursuant to amalgamations, reconstruction or mergers, the net consideration or purchase price would apply, but for the determination of capital allowances, the tax written down value would apply.

**Jamaica**

The provisions of the draft protocol are similar to certain provisions in Jamaican tax law but they are not identical.

**Article IX - Agreements for extra-regional financing with implications for withholding taxes**

Under Article IX of the protocol, entitled “agreements for extra-regional financing with implications for withholding taxes”, where a person makes an interest payment to a non-regional financial institution or person there shall be applied a withholding tax at a rate not exceeding 20 per cent.

# CARICOM tax harmonisation

**Barbados**

In Barbados, the withholding tax rate on interest paid to a person who is a resident of a non-treaty country is currently 15 per cent. However Barbados has a number of double taxation agreements in place, all of which include an article on interest. The withholding tax rates on interest under these treaties vary from 0 per cent to 15 per cent.

**Trinidad**

Over in Trinidad, where a person makes an interest payment to a non-resident person, withholding tax will generally apply at the standard rate of 20 per cent. Trinidad also has a number of double taxation agreements in place, which include articles on interest as well. The withholding tax rates on interest under these treaties are generally either 10 per cent or 15 per cent.

**Antigua**

In Antigua, where a person makes an interest payment to a non-resident person, withholding tax will generally apply at the standard rate of 20 per cent for individuals and 25% for corporations. A rate of 15% for both individuals and corporations will apply for residents of a CARICOM member state in accordance with the CARICOM double taxation treaty.

**St. Lucia**

Unlike the case most of the countries in the Caribbean, there is no withholding tax on interest paid to regional or non-regional financial institutions or persons in St. Lucia.

**Jamaica**

The Jamaica Income Tax Act provides that interest paid by Jamaican residents (or local branches of external companies) to non-residents shall be subject to withholding tax. Withholding tax is imposed (under local rules) at the rate of 33⅓% for payments to a corporate recipient and 25% to an individual recipient.

Jamaica has also concluded a number of double taxation agreements, which include articles on interest. The withholding tax rates on interest under these treaties range from 7.5% to 15%.

# CARICOM tax harmonisation

## Article X - Exploration and research expenses

Where exploration and research expenses are incurred prior to the commencement of business activities, such expenditure shall be written off over a period of five years or more. Where they are incurred during the operations of a business, such expenditure shall be treated as a revenue expense.

### Barbados

In Barbados, there are no provisions in the Income Tax Act for oil and gas exploration, these are covered by the Petroleum Winning Operations Taxation Act.

Under this Act, qualifying capital expenditure, which is defined as expenditure in connection with or in preparation for the winning or obtaining in Barbados or its territorial waters of petroleum and includes research and development costs, incurred after the grant of a licence may be accumulated or capitalised.

If accumulated, they can be deducted in computing the chargeable profits of the enterprise for any accounting period ending after the effective date of the concession holder.

Where the capitalised qualifying capital expenditure was incurred prior to the effective date, a concession holder may elect to claim a depletion allowance at a rate not exceeding 20 per cent per annum of the qualifying capital expenditure for any accounting period after his effective date. Where the capitalised qualifying capital expenditure was incurred after the effective date the concession holder may elect to claim a depletion allowance at a rate not exceeding 10 per cent per annum of the qualifying capital expenditure for any accounting period after his effective date.

### Trinidad

No provision is made under the Income Tax Act for the treatment of exploration and research expenses in Trinidad.

Instead, these are dealt with in the Petroleum Taxes Act, which provides that:

(i) pre-trading research costs cannot be recovered unless they can be capitalised as part of the cost of plant and machinery, and

(ii) costs incurred after commencement of trading activity will only be deductible to the extent that they can be established to be revenue expenses wholly and exclusively incurred in the production of income; or allowable as part of the entity's capital allowance reliefs if, again, they can be capitalised as part of the cost of plant and machinery.

**Antigua**

The Antigua Income Tax Act makes no provision for the treatment of exploration and research expenses. However, it should be noted that

(i) start-up costs or pre-trading costs will be amortised over a five year period unless they can be capitalised into the cost of plant and machinery, and
(ii) costs incurred after commencement of trading activity will only be deductible to the extent that they can be established to be expenses wholly and exclusively incurred in the production of income; or allowable as part of the entity's capital allowance relief if they can be capitalised as part of the cost of plant and machinery.

**St. Lucia**

The St. Lucia Income Tax Act does not specifically address exploration and research expenses, but the general rule on allowable deductions is that all expenditure wholly and exclusively incurred during the year of income for the purpose of producing assessable income would be allowable.

Section 43 of the Act specifically states that no deduction is allowed to the extent to which it is not incurred for the purpose of producing assessable income and exploration and research is not included in the Second Schedule as an asset that qualifies for capital allowances.

There is therefore no basis for writing off exploration and research expenses incurred prior to the commencement of business activities, but if the expenses were incurred for the purpose of producing assessable income during the income year they would be treated as revenue type expenses.

**Jamaica**

In Jamaica, initial and annual capital allowances may be claimed on expenditure on mines and wells. The initial allowance is granted at a rate of 20% in the year of assessment in which the expenditure is incurred. Annual allowances are granted for each year that the asset is in use at the end of the year of assessment (or basis period), at the greater of 5% of a fraction based on the current output divided by current output plus potential future output.

Expenditure incurred on scientific research not of a capital nature may be deducted as an expense in computing the profits or gains of the trade for the purposes of income tax.

A person incurring expenditure on scientific research of a capital nature may claim a deduction equal to 20% for each of the five years commencing in the year the expenditure was incurred.

# CARICOM tax harmonisation

And that ladies and gentlemen is a summary of the current tax provisions in five CARICOM territories, so now I will hand you back to our moderator. As you can see, the legislation in most of the territories differs from each other and from the protocol, so there will be quite a lot of work necessary in each territory.

## Summary

## Article I - Capital allowances

- Protocol – capital allowances on pooled assets at 4 rates for plant and machinery and 2 for buildings; no initial allowances; reducing balance or straight line?
- Barbados – initial allowances (20%/40%), investment allowances (20%/40%), annual allowances (various), manufacturing allowances; straight line method
- Trinidad - capital allowances on pooled assets at 4 rates; initial allowances for manufacturing entities; reducing balance method
- Antigua – initial allowances (20%), annual allowances (various); reducing balance method
- St. Lucia - initial allowances (20%), annual allowances (various); reducing balance method
- Jamaica - initial allowances (12 1/2%/20%), investment allowances (20%/40%), annual allowances (various), special capital allowances and special annual allowances

## Article II - Interest

- Protocol – deduction of interest, but only of paid within one year for an arms length transaction and two years for a non arms length transaction
- Barbados – same as protocol
- Trinidad – deductible if incurred in production of assessable income and withholding tax has been accounted for
- Antigua – only interest paid to banks and financial institutions is deductible, not interest on loans from owners, shareholders, directors, etc.
- St. Lucia - deductible if incurred in production of assessable income, but not on loans by shareholders to controlled companies
- Jamaica – interest paid is deductible

# CARICOM tax harmonisation

## Article III – Losses

- Protocol – Indefinite carry forward, but restriction on setoff to 50% of taxable income
- Barbados – 9 year carry forward, but no restrictions on setoff except for rental of residential properties
- Trinidad – Indefinite carry forward and no restrictions on setoff except against income from employment or profession
- Antigua – 6 year carry forward, but restriction on setoff to 50% of taxable income
- St. Lucia – 6 year carry forward, but restriction on setoff to 50% of taxable income
- Jamaica – Indefinite carry forward and no restrictions on setoff

## Article IV – Pensions

- Protocol – deduction for contributions to an approved pension fund
- Barbados – deduction for contributions to an approved pension fund of up to 15% of an employee's pensionable emoluments
- Trinidad – deduction for contributions to an approved pension fund
- Antigua – deduction for contributions to an approved pension f
- St. Lucia – deduction for contributions to an approved pension f
- Jamaica – deduction for contributions to an approved pension fund of up to 10% of an employee's pensionable emoluments

## Article V – Insurance premium tax

- Protocol – insurance premium tax at a rate of x%
- Barbados – premium taxes at rates of 3%/5% on life insurance premiums, 3.75% on property insurance premiums and 3% on other general insurance premiums
- Trinidad – premium taxes at 6% on property insurance premiums
- Antigua – premium taxes at 3% on life and general insurance premiums, excluding motor premiums
- St. Lucia – premium taxes at rates of 1.5%/3% on life insurance premiums and 3%/5% on general insurance premiums
- Jamaica – premium taxes at 3%/4% on life insurance premiums

# CARICOM tax harmonisation

## Article VI – Minimum corporation tax

- Protocol – x% of gross receipts to be used as a credit against final corporation tax liability
- Barbados – none
- Trinidad – Business levy of 0.2% on gross sales and receipts
- Antigua – none
- St. Lucia – none
- Jamaica – none

## Article VII – Mergers and splitters

- Protocol – change of more than 50% in underlying control or ownership and change in nature of business, losses cannot be carried forward
- Barbados – none
- Trinidad – change of more than 50% in underlying control or ownership, losses cannot be carried forward unless revenue is satisfied that change was not done for tax avoidance purposes
- Antigua – none
- St. Lucia – none
- Jamaica – some restrictions exist on utilization of tax losses where there has been a change in control and in the nature or conduct of a trade or business within a three year period

## Article VIII – Disposal and acquisition of assets

- Protocol – assets disposed or acquired other than by way of an arms length transaction deemed to be at market value; otherwise tax written down value applies
- Barbados – tax written down value only applies where there is a succession of a business
- Trinidad – no similar provision, although revenue may impose market value if transaction deemed to be for the purposes of avoiding tax
- Antigua – no similar provision, although revenue may impose market value if transaction deemed to be for the purposes of avoiding tax
- St. Lucia – tax written down value applies for capital allowances purposes
- Jamaica – similar to protocol

# CARICOM tax harmonisation

## Article IX – Agreements for extra-regional financing with implications for withholding taxes

- Protocol – withholding tax on interest paid to non-resident financial institutions or persons at a rate not exceeding 20%
- Barbados – non-treaty rate 15%; treaty rates vary from 0% to 15%
- Trinidad – non-treaty rate 20%; treaty rates generally 10% or 15%
- Antigua – non-treaty rate 20% for individuals and 25% for corporations; CARICOM treaty rate 15%
- St. Lucia – none
- Jamaica – non-treaty rate 25% for individuals and 33 1/3% for corporations; treaty rates vary from 7.5% to 15%

## Article X – Exploration and research expenses

- Protocol – expenditure on exploration and research incurred prior to commencement of business activity deducted over 5 years or more; expenditure incurred during operations of business treated as revenue expenses
- Barbados – qualifying capital expenditure can be accumulated or capitalised and deducted at specified rates
- Trinidad – pre-trading costs only deductible if part of cost of plant and machinery; costs incurred after commencement of activity deductible if incurred in the production of income or are part of cost of plant and machinery
- Antigua – pre-trading costs amortised over a period of 5 years; costs incurred after commencement of activity deductible if incurred in the production of income or are part of cost of plant and machinery
- St. Lucia – deductible if incurred for the purpose of producing assessable income
- Jamaica – allowances can be claimed on expenditure on mines and wells; expenditure on scientific research not of a capital nature can be deducted as an expense