

**BUDGET PROPOSALS
2008 – 2009**

**A PRESENTATION
OF
THE INSTITUTE OF CHARTERED ACCOUNTANTS
OF
TRINIDAD AND TOBAGO**

PREPARED FOR THE MINISTRY OF FINANCE

29 MAY 2008

INTRODUCTION

These proposals for the 2008-2009 Trinidad and Tobago Budget have been prepared by The Institute of Chartered Accountants of Trinidad and Tobago (ICATT) at the request of the Honourable Karen Nunez-Tesheira, Minister of Finance.

ICATT was established by statute in 1971 as the body responsible for the development and regulation of the accountancy profession in Trinidad and Tobago. As such, ICATT takes great interest in issues of national importance including taxation. The Taxation Committee of the Council of the Institute comprises several of the country's leading tax practitioners.

Continuing from our previous submissions and the Government's focus on taking Trinidad & Tobago to developed status by 2020, we have developed our submission which we believe reflects the areas that require attention. As indicated in previous submissions, the budget should be a process which roles out the Government's overall long term fiscal policy with an analysis of what will happen in the ensuing year which will ensure that the broader strategy is achieved. It is noteworthy that a number of our fiscal proposals recommended last year were adopted in some form and in preparing this years' presentation we believe that we have been able to provide recommendations that will fit into the Government's policy agenda and will be available to discuss these with you should you so require.

Our presentation focuses on the following:

- General and Social Proposals
- Pension and retirement Savings issues
- Fiscal Proposals and other proposals
- Fiscal Administration

1 SOCIAL DEVELOPMENT

1.1 Transportation

The Government has commissioned various transportation studies with a view to alleviating the congestion on the roads.

In addition to the initiatives that the Government has already espoused, we believe that the following areas be given consideration:

- Flexi time promoted at Government offices; that is work times could be from 6am to 6pm, and persons can elect to work their eight hour day within that period. This should also be extended by the private sector.
- Large transport / delivery vehicles, including containers delivered from the Port should be only allowed to use the main highways and byways during off-peak hours. These deliveries should now take place between 6pm and 6am from Monday to Friday. In addition, Port deliveries could be extended to Saturday and Sunday, when there is less traffic congestion. Whilst some may argue that there will be increased costs due to security, we believe the reduce time spent on the road will outweigh the additional security costs that may be required with this system.
- The use of traffic lights on the Churchill Roosevelt Highway between the Piarco Junction and the Lighthouse. In this regard we suggest the use of making certain junctions inaccessible during rush hour. For example, there are lights at the El Socorro Junction and the Aranguez Junction. The distance between these lights is approximately 1 km. Consideration should be given to having one of these as no entry during rush hours of 6-9am and 3-6pm. Motor vehicle traffic seeking to enter the highway can use an alternative route. The same is applicable for the area between Tacarigua and Trincity. We believe that the reduced number of stops on the highway during rush hours will also alleviate the traffic works woes faced by commuters daily.
- Use of Dock Road at the Port – This road is primarily used by vehicles being cleared from the Port and runs most of the length of Wrightson Road. We believe that the expansion of this road to facilitate the use of other commercial traffic, could relieve some of the bottle-necking issues that arise at the lighthouse and further on to Wrightson Road;
- Decentralisation of certain Government offices, moving them outside of Port of Spain;

We believe this coupled with the fast ferry will provide further assistance in the traffic congestion problem that we are facing.

1.2 Financial Centre – 20 / 20 Vision

The Government has indicated that they are positioning Trinidad & Tobago as the financial centre for the Caribbean. In this regard, it is imperative that all regulatory bodies that govern Companies operating in the financial services sector, have the ability to discharge their regulatory function effectively. Accountants play a significant role in this aspect as most financial institutions rely on information provided by accountants to manage their credit risk, which directly impact their institutional strength.

1 SOCIAL DEVELOPMENT (CONTINUED)

1.2 Financial Centre – 20 / 20 Vision (Continued)

Financial statements produced by Accountants and signed by Auditors are governed by the International Accounting Standards Board (IASB) and the International Federation of Accountants (IFAC). IFAC has detailed several rules and guidelines by which accountants should operate including quality assurance and a code of ethics. ICATT has been able to secure grant funding from the IADB to assist the Institute in strengthening the rules to ensure that the IFAC's guidelines can be followed and monitored. However the laws of the country must also be amended to be in line with these changes. In this regard, we believe that consideration should be given to the following:

- All Accountants taking responsibility for the preparation of Financial Statements of public interest entities and all auditors expressing assurance statements on financial statements for any entities must be members of ICATT in good standing and holding practising certificates as appropriate. Furthermore, consideration should be given to extending this requirement to the Accounts accompanying Tax Returns filed with the Board of Inland Revenue. Users of services provided by accountants who are not members of the national body (ICATT), would have little recourse locally if there was any reason to suspect improper behaviour or incompetence.

The relevant legislation affected would be the Companies' Act 1995, the Financial Institutions Act 1993, the Insurance Act 1980, the Securities Industries Act and the Income Tax Act.

1.3 Housing and Stamp Duty

In 2006, the threshold for stamp duty on the purchase of a property increased to \$450,000. We believe that with the increasing costs of properties, consideration should be given to further increasing the threshold at which no stamp duty is payable. In this regard we suggest the following:

Under \$600,000	0%
\$600,001 - \$750,000	5%
\$750,001 - \$900,000	7.5%
Over \$900,000	10%

2 PENSION & RETIREMENT SAVINGS

2.1 Pension Allowance

We noted the increase in last year's Budget in the allowance for pension and individual deferred annuity contributions from \$12,000 to \$25,000. This has already led to increased savings in tax approved individual deferred annuities. We wish to draw your attention to certain remaining impediments to maximizing national savings through tax approved retirement savings.

2.2 Transfers Between Deferred Pension & Deferred Annuity – “Portability”

The previous Budget envisaged a removal of the restrictions in the Income Tax Ordinance on transfers between tax approved retirement savings vehicles. That is, there should be no tax penalty on transfer between individual deferred annuities approved under s28 of the Income Tax Ordinance. Further, we believe that the intention was to allow a person with a deferred pension in an approved occupational pension plan to transfer the value of their deferred pension benefit funds to an individual approved deferred annuity. Similarly, a person was to be allowed to transfer the balance on an individual approved deferred annuity into an approved occupational pension plan.

However, the actual wording of the amendment to s28 does not seem to have met the stated intent of the Government. As a result, there has been no implementation of the desired portability this year. We would be happy to assist the working committee to develop revised wording to help meet Government's actual intentions.

2.3 Transfers of Group Annuity Contracts – Stamp Duty Exemption Needed

In addition, and for consistency, we also request that the Stamp Duty Act be amended to exempt transfers on account balances for pension contracts approved under s134(6) of the Income Tax Ordinance. The current situation is as follows: My employer (A) takes out a s134(6) group deferred annuity contract for my benefit. Suppose I join another employer (B), and want to transfer the balance on the contract to a new s134(6) contract taken out by B. The balance is exempt from income tax, but not stamp duty. So even though I cannot access the funds until age 50, I will have to pay stamp duty on the accumulated balance.

2 PENSION & RETIREMENT SAVINGS (CONTINUED)

2.4 Pension Plan Approval Process

The current delays in approvals of pension plans by the BIR are causing problems for employers who want to implement pension plans, and discouraging others. In practice, the BIR does allow tax deductions on pension plans not yet approved. However, subsidiaries of US and other foreign companies have to comply exactly with foreign law or face Sarbanes-Oxley compliance problems. As such, this is not helping our image as an international financial centre.

The legal department of the BIR has been under-staffed for many years, and this is unlikely to change in the medium term. We therefore recommend three administrative policy changes:

- Creation of a standard pension plan legal document format – once a plan is in line with that format, approval is automatic. It would also reduce legal costs. This would be similar to the Schedule A concept for companies that do not want to create their own Memorandum & Articles. Similarly, a pension plan could file on an exception basis, so the BIR could limit their review to the stated exceptions.
- Adoption of a file and use approach. That is, if the BIR does not object to an approval within six months, it is deemed to be approved. Taken together with the exception approach above, this could help focus scarce resources on the difficult and exceptional cases.
- Payment of additional filing fees for “fast track” approval status. This approach is used in the US.

In addition to the above, currently defined benefit pension plans limit the retirement benefit to two-thirds of an individual's final salary. Therefore there is no incentive for an individual to improve his final pension by making voluntary contributions as these voluntary contributions may have no impact on his eventual retirement pension once he has achieved the ceiling on the pension. We believe that this will not promote the savings that are required to ensure that individuals are self sufficient at retirement and recommend that this ceiling be removed.

2.5 Deferred Annuity Approval Process

Currently, each individual deferred annuity contract issued by an insurance or trust company must be submitted to the BIR for approval. This causes unnecessary delays and acts as an impediment to national savings. It is also a further burden on the legal department. In other jurisdictions, the tax authorities approve the standard contract wording. Once the insurance or trust company issues a standard contract, it is automatically approved. They do not have to submit each contract written for tax approval.

A similar approach can be adopted locally, with possibly significant improvement in national savings. The annuity provider can send a summary of policies issued to the BIR monthly if required.

2 PENSION & RETIREMENT SAVINGS (CONTINUED)

2.6 Level Playing Field

The regulatory regimes covering retirement savings products issued by banks and insurance companies should be harmonized.

2.7 State Pensions - NIS and Old Age Pension

The integration of the NIS and OAP systems continues to be a desired but not implemented goal. These and other macro adjustments to the system such as higher contribution rates and retirement ages will have to be made as the years pass. We encourage the Government to continue its considerations of these issues and implement sound reforms now, while the population is still relatively young.

3. FISCAL AND OTHER PROPOSALS

3.1 Group Loss Relief

In 1997, a system of partial group loss relief was introduced to enable companies that are part of a group to set off losses against the profits of another profitable member company. We believe that the legislation envisaged that once companies are part of a group structure for the period during which the loss was incurred such losses can be offset up to 25% of the liability of the profitable company. The unrelieved losses would be carried forward to future periods. However, the manner in which the legislation is worded, only losses incurred in the accounting period can be offset (Section 18G (1) of the CTA). Therefore, if part of a loss incurred in the year is surrendered, the balance cannot be surrendered to a future accounting period. In addition, only companies that are 100% subsidiaries in a group are entitled to loss set off. Thus, where there are minority interests, there is no benefit to be derived from this group loss relief.

We suggest that:

- This aspect of the legislation should be clarified, so that group losses may be offset and unrelieved losses may be utilised against future profits.
- Once companies are part of a group, then group loss set off should be available in accordance with their shareholding in the loss making entity;
- The amount available for offset should be increased to 50%.

3.2 Other Suggested Policy Measures

3.2.1 VAT and Business Levy Threshold

The current threshold for VAT and Business Levy is \$200,000. With the increase in inflation, we believe that this threshold should be increased to \$400,000; this increase will result in a reduction in the administrative burden that is placed on the BIR where the revenue collected is minimal.

3. FISCAL AND OTHER PROPOSALS (CONTINUED)

3.2.2 VAT Penalty

At present, the penalty for late payment of VAT is 8% and interest accrues at 2% per month. While we agree that penalties and interest must be charged, we believe that these charges are onerous and should be reviewed. In this regard, we suggest that the while the penalty could remain the interest should be in keeping with the interest charged under the Income Tax Act of 20% per annum.

3.2.3 Make Business Levy And Environment Levy Assessment On A Financial Year Basis

Several of our members are of the opinion that these taxes create unnecessary administrative burdens on taxpayers and the billing authorities. It may well be that the cost of administering these taxes outweighs the revenue derived therefrom. Whilst the business levy is there as a minimum tax, it does put additional burden on companies that are already experiencing losses. In addition, an assessment needs to be done to ascertain how much revenue is actually collected from both these taxes and ascertain whether the collections exceed the costs of administering the system.

At a minimum, we would suggest that they should be assessable on a financial year rather than calendar year basis. This would then be in line with the quarterly payment basis for corporation taxes. In addition, Environment Levy should be a creditable tax.

In addition, the Green fund levy is collected however there is no accountability for the use of these funds. The purpose of this tax has therefore been lost in the eyes of the public. There are specific industries whose operations have a direct impact on the environment and consideration should be given to levying the tax in that region where there is non-compliance with environmental regulations. Therefore, companies will be required to institute proper environmental controls to protect the environment. Where these standards and controls are not met then additional taxes are levied. These regulations and the monitoring thereon can be done by the Environmental Management Authority

3.2.4 Environmental Expenditure

In order to meet new environmental regulations, businesses have to incur substantial costs. As an incentive towards this, we feel that a tax write off of 100 percent of the environmental compliance costs incurred within the next three years should be given in the year in which the costs are incurred.

3.2.5 Amalgamations

Under the current legislation, there are no provisions which deal specifically with how companies that have amalgamated should be treated for tax purposes. We suggest that the tax legislation be amended to take cognizance of the changes made in the Companies Act, 1995 to ensure that companies in making their strategic plans have clear guidance to make their decisions.

3. FISCAL AND OTHER PROPOSALS (CONTINUED)

3.2.6 Tax Returns

The current legislation allows anyone to prepare and file a tax return without reference to any financial reporting standards. This position is very broad and may cause tax returns to be prepared without reference to operational and taxable results.

We recommend that a threshold be instituted on companies and where gross annual income exceeds \$5,000,000 or annual loss exceeds \$250,000, these returns should be accompanied by a full set of financial statements in accordance with International Financial Reporting Standards.

3.2.7 Shareholding

The Companies Act 1995 as amended is silent on the issue of the need to issue shares in a Company. As a result, a company may be incorporated and operating for many years without share capital. This position may prejudice creditors and financiers.

It is recommended that upon commencement of operations and/or opening a bank account, whichever is earlier, every limited liability company shall issue its share capital.

3.3 *Tax Incentive Legislation*

Continued review of these pieces of legislation is required. With the continued improvements in the tax system as well as reduction in taxes, these pieces of legislation may no longer be required.

Incentives should rather be granted through the capital allowance system. In addition, there should be consolidation of all capital allowance legislation into one Act, thus bringing all the allowances currently granted under the In Aid of Industry Act into the main Income and Corporation Tax Acts. Secondly, consideration should be given to the reintroduction of investment allowance for capital expenditure on productive assets, (plant and machinery, excluding expenditure on cars and furniture and equipment), as the tax incentive rather than separate tax incentive legislation.

4. ADMINISTRATION

4.1 *Time Limit For Making Assessments And Settlement Of Objections*

Over the years, various Ministers of Finance have sought to ease the burden of the BIR by simplification of the tax regime, making it optional for salaried persons with annual incomes up to \$50,000 to file returns (thus reducing the number of returns), upgrading of computer equipment and decentralisation of offices. These were all intended to make the BIR more effective and efficient. In spite of this, the time limits for making assessments and settling objections have remained the same. In order to encourage the BIR to become more efficient in the circumstances, we propose as follows: -

- 1) The time limit for making assessments be reduced to four years. This will not only cause the BIR to become more efficient but will also result in savings to businesses thereby increasing incomes and taxes.

- 2) The time limit for settling objections be reduced to one year. Savings to both BIR and businesses will result from this proposal.
- 3) Where matters go to the tax appeal Board and the matter decided in the tax payers favour, consideration should be given to awarding costs to the tax payer.

4.2 Payment of Miscellaneous Taxes

The South office of the BIR is responsible for collection of tax revenues in the South. However at the South office, Motor Vehicle taxes and withholding taxes are not accepted, and these taxes can only be settled in Port of Spain. Minor administrative changes could ease the plight of the many taxpayers who have to endure hardship to travel to Port of Spain to make these payments.

Consideration should therefore be given to the establishment of regional offices to service the fast growing communities.

4.4 One Stop Shop For BIR, VAT And PAYE Registrations

The change in the PAYE and Corporate Tax registration, consolidating this registration point is welcomed, and we now need to see the same implemented for VAT. It is a waste of time and resources for a new taxpayer to have to make two applications at different areas of the BIR and furnish virtually the same information to both places in order to complete registration to meet its tax obligations. A single registration point could result in tremendous saving to the BIR in terms of manpower and space and will also benefit the taxpayer. Since there are staff constraints within the Revenue, this single registration point would free manpower that could be better utilised in enforcement and collections.

4.5 Green Fund Levy

It has come to our attention that the Green Fund Levy Act as it is written in the Miscellaneous taxes Act, provides that Green Fund Levy must be paid by all companies. In T&T, there are a number of incorporated charities who raise funds via donations and Government subventions and as the Act is worded, it appears that these donations will also fall within the ambit of Green fund levy. We believe that the Levy was not meant to attach to these charities on their donations and subventions and we are requesting that an amendment be made to the Act to exclude charities from Green Fund levy.

CONCLUSION

The Legislative and National Policy Input Committee of ICATT would be happy to discuss these and any other proposals at your convenience. The Institute of Chartered Accountants of Trinidad and Tobago stands ready to assist the process of national development.

BY ORDER OF THE COUNCIL OF THE INSTITUTE

May 29th 2008