

Country Guide

Jamaica

Prepared by

Myers, Fletcher & Gordon



LexMundi
Bringing the
best together™

lexmundi.com

Guide To Doing Business Questionnaire: Jamaica

The Country At A Glance

The primary language spoken is English, although a local dialect (patois) is also widely spoken. Jamaica does not have a fixed rate of exchange. The United States dollar, British sterling and the Canadian dollar are regularly traded. At the time of publication of this article, the average exchange rate for the United States dollar and the British sterling were J\$114 to US\$1 and J\$135 to £1.

Jamaica is a Caribbean island located at latitude 18 degrees north and longitude 77 degrees west and is approximately 588 miles (946.3 kilometres) southwest of Miami, Florida, USA; 90 miles (144.8 kilometres) south of Cuba and 100 miles (160.9 kilometres) west of Haiti. It is the third largest island in the Caribbean with an area of 4,411 square miles (11,424 square kilometres) and measuring 146 miles (235 kilometres) from east to west.

The Island has a mountainous interior and broad coastal plains encircled by beautiful white sand beaches. It has a maritime tropical climate and there is little change of season with the average temperature being 77°F (25.5°C) in the winter months and 82°F (28°C) in the summer. Although it experiences largely sunny, hot and humid weather year-round, May, June, September and October are generally considered to be the rainy months. The higher inland regions tend to be more temperate.

There are no cultural or religious influences or prohibitions on the way business is conducted in Jamaica. There is a strong religious influence in Jamaica. Christianity, in its various denominations, is the most widely practiced religion. Other religions in Jamaica include Rastafarianism, Jehovah's Witnesses, the religion of Islam, Hinduism and Judaism.

Jamaica's transport infrastructure consists of roadways for internal transport and air transport for internal and external transport. The Jamaican Government has, since the late 1990s and in cooperation with private investors, embarked on a campaign of infrastructural improvement projects, one of which includes the creation of a system of highways and toll roads to connect the main population centers of the island. Public transport in the form of buses and taxis are available widely islandwide. Railways are currently used primarily to transport bauxite.

Jamaica has two main international airports in Jamaica with modern terminals, long runways, and the navigational equipment required to accommodate the large jet aircraft used in modern air travel. These are the Norman Manley International Airport in Kingston, and the island's largest and busiest airport, Sir Donald Sangster International Airport in the resort city of Montego Bay. The Ian Fleming International Airport located in Boscobel, in the parish of Saint Mary provides service to the United States and to other Caribbean islands. It has one runway designed to handle private and commercial aircraft as large as the Bombardier Dash 8. There are also local commuter airports at Tinson Pen (Kingston), Port Antonio, and Negril which cater to internal flights only.

Owing to its location in the Caribbean Sea in the shipping lane to the Panama Canal and relative proximity to large markets in North America and emerging markets in Latin America, Jamaica receives

high container traffic. Kingston Harbour is the seventh largest natural harbour in the world. Most of it is deep enough to accommodate large ships, even close to shore. It is bordered to the north by the city of Kingston, the capital of Jamaica, to the west by Hunts Bay and the municipality of Portmore, and to the south and east by the Palisadoes spit. The harbour is home to the Kingston Container Terminal, Jamaica's largest port. Other docks on Kingston Harbour are at the Petroleum Corporation of Jamaica in downtown Kingston and at the Jamaica Flour Mills and the Caribbean Cement Company at Rockfort. Montego Freeport in Montego Bay also handles a variety of cargo like (though more limited than) the Port of Kingston. There are several other ports positioned around the island.

The Jamaica Public Service Company (JPSCo), is the island's sole electricity provider and was formerly a 100% state owned entity. Today, the majority of the shares in JPSCo are privately owned, although the Government of Jamaica retains a minority shareholding. Water is supplied by the state owned National Water Commission. The reliability and quality of potable water available through organized systems is generally viewed as good.

The supply of telecommunications services in Jamaica is advanced and diverse and the Island possesses an all-island domestic telephone network as well as amenities such as mobile services, high speed internet access and voice over internet protocol (VoIP) services. Jamaica has a fully digital telephone communication system and there has been rapid growth in mobile-cellular telephone usage and mobile phone service resulting in a mobile penetration of over 95%. The country's two main mobile operators are Cable and Wireless (marketed as LIME) and Digicel.

Jamaica depends on petroleum imports to satisfy its national energy needs. No commercially viable quantities of oil have been discovered.

General Considerations

Investment policies

Jamaica welcomes foreign investment. JAMPRO is an Agency of the Government of Jamaica's Ministry of Industry, Investment and Commerce that promotes business opportunities in export and investment to the local and international private sector and provides the policy framework for the encouragement of investment. It is a key policy advocate and advisor to the Government in matters relating to the improvement of Jamaica's business environment and the development of new industries.

There are no foreign exchange controls in Jamaica preventing or restricting the use of foreign currency generally nor is there a general restriction on foreign direct investment by private investors. A person who is on the business of buying, borrowing or lending foreign currency or foreign currency instruments must however be approved as an authorized dealer under the Bank of Jamaica Act. There are also restrictions on foreign governments investing in banks and financial institutions. In particular sectors a licence from a Minister or other governmental or regulatory agency may be required to conduct business.

The Government continues in its efforts to enhance the environment for doing business in Jamaica and recently implemented a comprehensive fiscal incentives framework that provides for varying levels of relief in respect of customs duties, and corporate income tax. These benefits include:

- The Fiscal Incentives Act that provides for the reduction of the effective corporate income tax rate by applying an Employment Tax Credit (ETC) with a maximum value and a Capital Allowance applicable to a broadened definition of industrial buildings.
- The Income Tax Relief (Large-Scale Projects And Pioneer Industries) Act that is targeted at large-scale projects and/or pioneering projects and provides for an improved and more attractive rate for the ETC Projects to be designated either as large-scale or pioneer will be based on the decision of Parliament having been informed by an Economic Impact Assessment.
- The revised Customs Tariff provides for 0% duty on capital equipment and raw material. Persons in Manufacturing, Tourism and Creative industries stand to benefit from duty free importation of industry-related consumer goods.
- The Revised Stamp Duty Act targeted at the manufacturing sector provides exemptions from additional stamp duty on raw materials and non-consumer goods.
- The Jamaica Free Zone Act under which companies designated with the Free Zone status are permitted to import items free of customs duty, value-added tax (called the General Consumption Tax - GCT) and other port related taxes and charges for an indeterminate period. Profits earned are also free from income tax for an indeterminate period. Eligibility is dependent primarily on the exportation of 85% of the goods and services produced within the Free Zone. This Act is slated to be repealed in 2015 at which time a new fiscal incentive arrangement will be enacted.

Other incentives may be found in the Income Tax Act, The Petroleum Refining Industry Encouragement Act and by direct application to the Minister of Finance.

The inflation rate in Jamaica was reported by the Statistical Institute of Jamaica at 9.77 percent in August 2014. The inflation rate in Jamaica averaged 10.86 Percent from 2002 until 2014, reaching an all time high of 26.49 Percent in August of 2008 and a record low of 5.29 Percent in November of 2006.

Jamaica has a diversified market with investments in Business Process Outsourcing (BPO) and Tourism. Investment opportunities are also available in traditional sectors like Agribusiness, Mining, Energy and Manufacturing, as well as emerging areas like medical tourism and the animation arts. The traditional and primary businesses in Jamaica are in, or connected to, the tourism or bauxite sectors, which have been adversely affected by the recent global economic downturn. Jamaica is also the producer of the world-renown "Blue Mountain" coffee and exports other products in the agricultural sector, including sugar, bananas, spices and fruits.

Diplomatic Relations

Jamaica has diplomatic relations with most nations and is a member of the United Nations and the Organization of American States. In the follow-on meetings to the December 1994 Summit of the Americas, Jamaica-together with Uruguay-was given the responsibility of coordinating discussions on invigorating society. Jamaica chairs the Working Group on smaller economies.

Jamaica is an active member of the Commonwealth of Nations and the Non-Aligned Movement (G-77). Jamaica is also a beneficiary of the Lome Conventions, through which the European Union (EU) grants trade preferences to selected states in Asia, the Caribbean, and the Pacific. Historically, Jamaica has had close ties with the United Kingdom but trade, financial, and cultural relations with the United States are now predominant. Jamaica is linked with the other countries of the English-speaking Caribbean through the Caribbean Community (CARICOM), and more broadly through the Association of Caribbean States (ACS). Jamaica has served two 2-year terms on the United Nations Security Council, in 1979-80 and in 2000-2001.

The following is a list of the contact information for some of the embassies and consulates in Jamaica.

Embassy of Argentina
40 Knutsford Boulevard
Kingston 5, Jamaica
Phone: (+1 876) 926-2496 ;Fax: (+1 876) 926-0580
Email: embargen@cwjamaica.com or ejama@mrecic.gov.ar

Consulate General of Austria in Montego Bay, Jamaica
Half Moon Post Office, Box 2560
Rosehall, Montego Bay, Jamaica
Phone: (+1 876) 953 24 90 ;Fax: (+1 876) 953 94 96
Email: andrea@halfmoonclub.com or hews@cwjamaica.com

Consulate of Barbados
55 Norbrook Drive, Kingston 8, Jamaica
Phone: (+1 876) 925-9363; Fax: (+1 876) 977-2855

Embassy of Brazil
Pan Caribbean Building
10th Floor, 60 Knutsford Boulevard
Kingston 5, Jamaica
Phone: (1876) 929-8607/8608; Fax: (1876) 968-5897
Email: brasking@infochan.com

The High Commission of Canada
3 West Kings House Road
Kingston 10, Jamaica
Phone: (1 876) 926-1500-7; Fax: (1 876) 511-3494
Email: kngtn@international.gc.ca

Embassy of Chile
5th. Floor, 6 Saint Lucia Avenue,

Kingston 5., Jamaica
Phone: 1(876) 968 0260/1/2; Fax: 1(876) 968 0265
Email: chilejam@cwjamaica.com
Chinese Embassy
8 Seaview Avenue, Kingston 10, Jamaica
Phone: (876) 927 3871; Fax: (876) 927 6920
Email: chinaemb_jm@mfa.gov.cn or chinaemba@cwjamaica.com

Cuban Embassy
9 Trafalgar Road
Kingston 5, Jamaica
Phone: (876) 978 0931/2; Fax: (876) 978 5372
Email: embacubajam@cwjamaica.com

Embassy of the Dominican Republic
32 Earls Court, Kingston 8, Jamaica
Phone: (876) 755 4154; Fax: (876) 755 4156
Email: domemb@cwjamaica.com

Honorary Consulate General of Finland
c/o Coldwell Banker Jamaica Realty
86 Hope Road, Kingston 6, Jamaica
Phone: (876) 946 0007; Fax: (876) 978 4030
Email: andrew@cbjamaica.com, keisha@cbjamaica.com

French Embassy
13, Hillcrest Avenue, Kingston 6, Jamaica
Phone: 876 978 0210; Fax: 876 927 4998
Email: frenchembassy@cwjamaica.com

German Embassy
10 Waterloo Road
P. O. Box 444, Kingston 10, Jamaica
Phone: 876 926 6728; Fax: 876 929 8282
Email: GermanEmbassy.Kingston@gmail.com

Embassy of Haiti
2 Monroe Road, Kingston 6, Jamaica
Phone: 876-927-7595; Fax: 876-978-7638
Email: eduardonorris@hotmail.com

High Commission of India
4 Retreat Avenue, P.O. Box 4466, Kingston 6, Jamaica
Phone: 876-9274480, 9274270; Fax: 876-9782801
Email: hicomindkin@cwjamaica.com

Embassy of Japan
NCB Towers, North Tower

6th Floor, 2 Oxford Road,
Kingston 5, Jamaica
Phone: 876-929-3338 / 9 ; Fax: 876-968-1373
Embassy of Mexico
PCJ Building, 36 Trafalgar Road
Kingston 10, Jamaica
Phone: (876) 926-4242; Fax: (876) 929-7995
Email: embamexj@cwjamaica.com

Embassy of Russian Federation
22 Norbrook Drive, Kingston 8, Jamaica
Phone: +1876 924-1048; Fax: +1876 925-8290
Email: Rusembja@colis.com

Embassy of Spain
9th Floor, The Towers, 25 Dominica Drive
Kingston 5, Jamaica
Phone: (876)-9296710 / 9298575 / 9201650; Fax: 876-9298965/ 876-9688110
Email: embespjm@mail.mae.es

Saint Kitts & Nevis Embassy
11A Opal Avenue, PO Box 157
Kingston, Jamaica
Phone: 876-9443861; Fax: 876-9450105

Honorary Consulate of Sweden,
c/o Myers, Fletcher & Gordon
21 East Street, Kingston, Jamaica
Phone: (876) 922 5860; Fax: +1 (876) 922 4811
Email: sweden.consulate.jm@cwjamaica.com

British High Commission
28 Trafalgar Road, P.O. Box 575
Kingston 10, Jamaica
Phone: (876) 510-0700; Fax:(876) 510-0737
Email: bhc.kingston@fco.gov.uk

United States Embassy
142 Old Hope Road
Kingston 6, Jamaica.
Phone: (876) 702-6000
Email: opakgn@state.gov

Embassy of Venezuela
Petrojam Building, 3rd Floor
36 Trafalgar Road
City: Kingston 10
Phone: 876 926-5510 / 926-5519 / 926-5570; Fax: 876 926-7442

Email: embavene@n5.com.jm

Government

Jamaica has a democratically elected government and has a long tradition of choosing its government (national and parochial) by constitutionally free elections – every three years for parochial and every five years for national. The system of government is based on the Westminster Parliamentary model, as is the constitution of the country. The judiciary exists as an independent arm of the government and there are constitutional provisions to protect the rights of citizens. In 1962 Jamaica gained its sovereignty from Britain. The present system of government is based on the British Westminster model where there is a House of Representative made up of elected members and a Senate made up of selected members. Election as a political institution is the principal means of choosing the representatives of the executive and legislative offices of the country. The Prime Minister is the head of the government. The British monarch, represented by a Governor General, is appointed by the Queen on the advice of the Prime Minister. The Electoral Office of Jamaica administers the election process. Local government is administered at the parish council level by elected representatives.

Jamaica has a stable, British style parliamentary system of government with a First-Past-The-Post Westminster election system whereby each constituency elects a single Member of Parliament. The party with the highest number of members of Parliament forms the government. An election is held a maximum of 5 years from the date of the last election, although on the decision of the Prime Minister, it may be held earlier. The two main political parties are the People's National Party and the Jamaica Labour Party. Currently the People's National Party forms the Government. The country has been ruled by the People's National Party for most of the preceding two decades except a brief period between September 2007 and December 2012 when the Jamaica Labour Party (JLP) formed the government. The next general elections are constitutionally due before December 2016.

Judicial System

The legal and judicial system is based on English common law and practice. The judiciary comprises the Supreme Court, a Court of Appeal, Resident Magistrates' Court, Petty Sessions courts and other Courts. The final Court of Appeal is the Judicial Committee of the Privy Council.

The Judicial Committee of the Privy Council, which is the final court of appeal, is based in London, England. It hears appeals on criminal and civil matters from the Jamaican Court of Appeal. The Caribbean Court of Justice (CCJ) is one of the primary institutions of the Caribbean Community (CARICOM). The CCJ has two core functions – to act as the final appellate court for the CARICOM member states and as an international court ruling on matters relating to the foreign policy coordination of the Revised Treaty of Chaguaramas (2001) that outlines terms of economic cooperation among CARICOM members.

The Court of Appeal consists of the President of the Court of Appeal, the Chief Justice (who sits at the invitation of the President) and six judges of the Court of the Appeal. A person who is dissatisfied with a decision of one of the other courts, except Petty Sessions, can appeal to this court. Petty Sessions appeals are heard by a judge in chambers. The Supreme Court of Jamaica is responsible for hearing serious civil and criminal matters. At the parish level, the Resident Magistrates' Courts deal with less serious civil and criminal offences. The Resident Magistrate of a parish is also the Coroner and conducts

preliminary inquiries into criminal matters. There are four special courts – Traffic Court, Gun Court, Family Court and Revenue Court. There are also Petty Sessions courts that deal with minor offences and are presided over by Justices of the Peace.

There is a Resident Magistrate's Court for every parish. Each Court has jurisdiction within the relevant parish and one mile beyond its boundary line. This Court presides over both civil and criminal matters. The divisions of the Resident Magistrate's Court are the Family Court, the Juvenile Court, the Traffic Court, Gun Court, Small Claims Court, the Drug Court and the Night Court. The Resident Magistrate's Court has limited jurisdiction in both civil and criminal matters. The jurisdiction of the Court in civil matters is currently limited to J\$1,000,000. Civil matters tried at a Resident Magistrate's Court include recovery of possession, recovery of rent, granting of probate and letters of administration.

The Supreme Court has unlimited jurisdiction in civil and criminal matters. It consists of the Chief Justice, a Senior Puisne Judge and Puisne Judges. Judges of the Supreme Court are appointed by the Governor General of Jamaica, on the recommendation of the Judicial Services Commission. They have jurisdiction to hear applications regarding any breaches of fundamental rights and freedom provided for in the Jamaican Constitution. The Supreme Court exercises important supervisory functions over tribunals, such as the Industrial Disputes Tribunal, and the Resident Magistrate's Court in the hearing of writs of habeas corpus and making of orders of certiorari, mandamus and prohibition. Divisions of the Supreme Court are the Revenue Court; the Gun Court and the Commercial Court. The Circuit Court is the criminal jurisdiction of the Supreme Court which, for the proper administration of justice, is convened in the parishes.

Appeals against decisions from both the Supreme Court and the Resident Magistrates' Courts are heard in the Court of Appeal. It consists of the President of the Court of Appeal and six Judges of Appeal. The Chief Justice is an ex-officio member, but only sits on the invitation of the President in matters in which the full Court is sitting. Judges of the Court of Appeal are appointed by the Governor General, on the recommendation of the Judicial Services Commission. The Chief Justice and the President of the Court of Appeal are appointed by the Governor General, on the recommendation of the Prime Minister after consultation with the Leader of Opposition.

The judicial system is generally perceived to be impartial, as the judiciary is independent of the Government. The judges, once appointed, have security of tenure. Once disputes fall within the jurisdiction of Jamaica, they fall to be determined by the local judicial system unless excluded by operation of law, or agreement of the parties. Contracting parties are free to exclude Jamaican Courts from having jurisdiction over any particular matter unless prohibited by law. Unfortunately on average, it takes 2 to 3 years from the date of commencement to conclusion of trial.

Mediation is now a mandatory part of the judicial process of the Supreme Court and is optional at the Resident Magistrate's Court level. Contracting parties may also agree to dispute resolution by arbitration, which may, at their option, be binding or non-binding.

Foreign judicial decisions may be enforced in Jamaica if the relevant country is party to a treaty with Jamaica which provides for reciprocal enforcement of judgments. The rules under which the Jamaican judiciary will enforce a foreign judgment are set out in the Judgments and Awards (Reciprocal Enforcement) Act and the Judgments (Foreign)(Reciprocal Enforcement) Act.

Legislative system

The system is based on the doctrine of separation of powers and so there is a separation between the Executive, the Legislature and the Judiciary. Jamaica has a bicameral legislature consisting of the House of Parliament and the Senate. Parliament consists of two Houses – the Senate, also called the Upper House, and the House of Representatives, also known as the Lower House – and the Queen. The Governor-General represents the Queen in Parliament, and his role is a formal one. Once a year, at the official opening of Parliament, he delivers the “Throne Speech”. Beyond this, his parliamentary function is limited to his formal assent to bills passed by the two Houses of Parliament.

Parliament has a life of five years, at the end of which Parliament must be dissolved and a general election held. However, the Prime Minister may advise the Governor-General to dissolve Parliament at any time within the five years and name the date for a general election. Also, Parliament must be dissolved and a general election held if a majority of all the members of the House of Representatives supports a no-confidence motion against the Government.

Environmental Considerations

Many environmental laws are enforced by specific agencies, created for that purpose. These usually fall under the responsibility of a Ministry of Government; each Minister has the responsibility to oversee the execution of the law and often hears appeals to decisions made by the agencies. In Jamaica, the primary law governing land-use planning is the Town and Country Planning Act. The Natural Resources Conservation Authority Act is the overriding environmental statute in Jamaica. It created the Natural Resources Conservation Authority (“NRCA”), an Authority with broad powers to manage Jamaica’s physical environment to ensure its protection and conservation. In 2001 the NRCA merged with the Town and Country Planning Department and the Land Development and Utilization Commission into a new agency called the National Environment and Planning Agency (NEPA). The NRCA was not repealed, however, and the NRCA continues to issue permits and licenses and adjudicates on environmental issues and considers applications for environmental permits and licences, planning and development, change of agricultural land use, beach use, construction and operation of prescribed industrial facilities, sewage discharge, and industrial waste discharge and processes and approves permits for the export and transit of hazardous waste. NEPA plays a pivotal role in large scale developments to ensure compliance with Government environmental standards and must be consulted in projects such as power generation plants, port and harbour development, subdivision of 10-50 lots or more, housing projects of 10 or more houses, hotel/resort complexes, airport and airfields; eco tourism and nature tourism projects, mining quarry projects and large industry projects. At the time of writing, NEPA is in the process of drafting a new environmental and planning law. One distinctive feature will be the merging of the environmental and permits systems, so that environmental and planning management issues will be considered simultaneously.

Intellectual Property

Intellectual property is protected in Jamaica primarily through the common law tort of “passing-off” and statutorily under legislation including the Trade Marks Act and the Regulations to the Act; The Patents Act; The Designs Act; The Copyright Act and Regulations to the Act and The Geographical Indications Act.

Prior use of a trade mark in Jamaica is not a prerequisite to registration in Jamaica. The time for filing an application for registration of a trade mark is approximately 8-12 months. Protection lasts for ten years and may be renewed for further ten year periods. Jamaica is a signatory to the Paris Convention, which was one of the first intellectual property treaties. An applicant who has previously applied for protection of a trade mark in a convention country (that is a country which is also a party to the Paris Convention) has a right to priority for the purposes of registering that mark for some or all of the same goods or services, such that, for the purposes of establishing which rights take precedence shall be the date of filing of the first Convention Application. Convention priority is only available where registration in Jamaica takes place within 6 months of the filing of the first Convention Application.

Any sign capable of graphical representation may qualify for registration as a trade mark under the Trade Marks Act. Most trade marks in Jamaica are represented by words, logos or a combination of both words and logos. A trade mark proprietor is entitled to protection of its trade mark from infringement as of the date of application for registration. This is to be contrasted with unregistered trade marks, which are only protected by law where the proprietor is able to prove that he has established goodwill in the trade mark. If no one opposes the application, trade mark registrations may be completed within 9 – 12 months from the date of application. Persons may file an opposition notice where, among other things, they believe that a trade mark, which is the subject of an application for registration, is identical or confusingly similar to an earlier trade mark registered or popularized by them, or the trade mark application was filed in bad faith, or the trade mark is descriptive or customary in the relevant trade. Registration of a company or business name does not provide a wide scope of protection for intellectual property associated with the registered name. The Registrar of Companies ought not to register a company or business name which is identical or substantially similar to one already existing on the Register of Companies or the Register of Business Names, unless the new applicant obtains the consent of the other party. However, registration of a company or business name will not be an obstacle to a third party’s application to register a trade mark under the Trade Mark Act. Further, a registered company or business name, which is not registered under the Trade Marks Act, is an unregistered trade mark.

There are some ideas which do not qualify for the grant of a patent or the registration of a design. Examples of ideas which would not qualify for registration include ideas relating to: business strategy, customer service, an evacuation plan, a crime fighting plan or an economic growth model. Once documented, the document becomes protected by copyright. The author is vested with exclusive authority to make copies, sell and publish the document, but not the idea. Copyright protects a tangible expression of ideas, but not the intangible idea. Accordingly, two or more persons may exploit the same idea whether or not their original source was a written document and whether or not each person derived the idea on his own. However, copying all or a substantial part of a written or recorded document (or other work) may be copyright infringement.

Letters Patent, issued by the Governor General of Jamaica, are granted for a term not exceeding 14 years, unless extended at the discretion of the Governor General for a further term of 7 years. Jamaica is not a signatory to the Patent Cooperation Treaty and so application cannot currently be made via the Treaty mechanisms. Letters Patent are granted based on the novelty of the invention to Jamaica.

An application for registration of an industrial design under the Designs Act must contain the particulars of the applicant, along with three copies of the design itself, showing the different perspective views. The application must state what the design is applied to, and should identify the classes in which registration is sought. Protection lasts for 15 years.

There is no registered system of copyrighted works in Jamaica. Copyright subsists automatically upon creation without any statutory registration requirements. The Regulations required for operating the system of registration of geographical indications are not yet in force.

Jamaica is a signatory to several international treaties and bilateral agreements concerning intellectual property. The relevant treaties are: Berne Convention for the protection of literary & artistic works, Rome Convention - for the protection of performers, producers of phonogram and broadcasting organizations, Geneva Convention - for the protection of phonograms against unauthorized duplication of their phonograms, WIPO Copyright Treaty, WIPO Performances and Phonograms Treaty, Agreement on Trade Related Aspects of Intellectual Property, Paris Convention for the Protection of Industrial Property, Brussels Convention relating to the Distribution of Programme-carrying Signals Transmitted by Satellite, Nairobi Treaty on the Protection of the Olympic Symbol, Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, and the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks

Investment Incentives

There are various pieces of legislation in Jamaica that establish a framework for various investment incentives. The incentives are generally available to manufacturing, export and agricultural industries. These incentives are usually in the form of relief from customs duty, general consumption tax on machinery and equipment and income tax. Examples are Jamaica Export Free Zones Act and International Technical Assistance Programme. See also our discussion herein regarding the fiscal incentive regime.

Jamaica is a signatory to the World Trade Organization (WTO) Doha Ministerial Declaration which requires the encouragement of free trade. Export financing is available from private financial institutions. There are several commercial banks, merchant banks and other regulated financial institutions which offer collateralized and unsecured business financing. The National Export-Import Bank of Jamaica Limited (EXIM Bank) specializes in providing financing for export businesses. There is no general requirement for a national to be a shareholder/director in an enterprise in order for the investor to receive grants or subsidies.

Legislation in Jamaica provides for relief from double taxation on income earned in Jamaica by citizens of other countries, thus incorporating the provisions of bilateral double taxation treaties between Jamaica and other territories including the United States of America, France, the United Kingdom and the Kingdom of Spain. The Double Taxation Relief (Taxes on Income) (Caribbean Community) Order, Jamaica allows relief from double taxation on income earned by nationals (including bodies corporate or other legal persons) of CARICOM member countries in another CARICOM country.

Withholding Income Tax

Income tax is to be withheld from payments made to persons liable to pay income tax in Jamaica and for which the law requires that the payer withhold the tax. Tax is usually withheld from employees, customers of banks and financial institutions that make interest payments, companies paying over income earned in Jamaica by overseas individuals and corporations, and local companies making dividend payments to overseas individuals and corporations. Tax is to be withheld at the applicable rates for individuals or for corporations.

All foreign employees seconded to Jamaica are liable to pay income tax depending on the length of time spent in Jamaica, subject to any applicable relief from double taxation statutes and treaties. If the employee stays less than three months in any year of assessment, he can be taxed only in respect of the gross income received in Jamaica. If the employee stays longer than three months but less than six months, he can be taxed on the gross income that relates to work done in, or in relation to Jamaica. If the employee stays longer than six months, he can be taxed in the same manner as a resident of Jamaica, on his worldwide income.

Tax on Business Profits

While the income tax rate for regulated companies remains at 33½%, the rates for large unregulated and unregulated companies were reduced to 30% and 25%, respectively. It should be noted that the 30% rate for large unregulated companies only apply to Year of Assessment 2013, as effective January 1, 2014 they are now taxed at 25%.

Local companies and companies with a permanent establishment in Jamaica are taxed on their worldwide income, subject to applicable Relief from Double Taxation statutes.

Every taxpayer is required to estimate his income for each year and pay tax chargeable under the Income Tax Act to the Inland Revenue Department based on that estimated income. The payments based on estimated income are to be made in four equal installments on or before March 15, June 15, September 15 and December 15. For new businesses or streams of income, the income is to be estimated for the year in which the business commenced to December 31 and the tax attributable to that income is also to be paid by December 31.

Annual income tax returns (which would reconcile estimated income with actual income) is to be filed by March 15 of the year following the period of assessment. Failure to file tax and contributions returns and pay the taxes and contributions due are generally criminal offences, and exposes the company to liability or suit for the debt.

Minimum Business Tax

The minimum business tax, is the sum of J\$60,000 which is payable by every "specified taxpayer" (including most companies) in respect of each year of assessment. The tax is payable in two equal instalments of J\$30,000 each: the first instalment is payable on or before June 15 of the year of assessment and the second on or before September 15 of the year of assessment. The first year of assessment is the year 2014 and the first instalment of the minimum business tax was therefore due on or before June 15, 2014. The tax paid is to be credited towards the income tax payable by the specified taxpayer for the year of assessment only and cannot be used to offset tax liability in any other year. The tax is therefore to be treated as a discharge by the specified taxpayer of its liability to income tax for the year of assessment to the extent of the amount of the tax paid. The remainder of the specified taxpayer's liability to income tax remains and is not otherwise affected by this payment or discharge. Excess tax (over any income tax liability of the specified taxpayer) is not refundable and cannot be

carried forward or credited against the minimum business tax or other income tax payable by the specified taxpayer in any subsequent year of assessment. This applies notwithstanding that for any reason the taxpayer's liability is nil. Persons who fail to pay the whole or any part of the minimum business tax are liable to the prescribed penalty for the month it is outstanding and each subsequent month or part thereof until the tax is paid in full. Minimum business tax will be treated as outstanding if it is unpaid on the first day of the calendar month following the date for payment that is July 1 and October 1.

Deductions allowed for calculating statutory income – business profits and individual income

Section 13 of the Income Tax Act specifies the allowable deductions for the purpose of computing income tax. They include: interest and preference dividends paid upon capital employed in acquiring the income, rent paid on premises for the purpose of acquiring the income; cost of repairing buildings, plant and machinery employed in acquiring the income, rates and taxes paid on real estate from which the income is derived and operating losses.

The Income Tax Act includes more detailed provisions in respect of how the deductions are to be calculated. The company must maintain proper records, such as receipts, in order to satisfy the Commissioner of Taxes of the deductions being claimed.

General Consumption Tax (GCT)

GCT is a value added tax and is chargeable on the supply of goods and services in the course or furtherance of a taxable activity, and on the importation into Jamaica of goods and services. GCT is currently payable at the rate of 16.5% in respect of most goods and services. Businesses with sales in excess of three million dollars (J\$3,000,000) per annum must register under the General Consumption Tax Act and upon completion of such registration should collect and remit to Tax Administration Jamaica GCT charged to customers.

Financial Facilities

The financial system is a mix of deposit taking institutions regulated by the Bank of Jamaica and non-deposit taking financial institutions that fall directly under the regulatory oversight of the Financial Services Commission. Financial Institutions and/or Services Supervised by the Bank of Jamaica are deposit-taking institutions (including Commercial Banks licensed under The Banking Act, Merchant Banks and Finance Houses licensed under The Financial Institutions Act and Building Societies licensed under The Building Societies Act), Money Services Businesses including Cambios, Bureaux de Change and Remittance Companies and Credit Bureaus. Financial institutions and/or services supervised by the Financial Services Commission including Insurance, Securities Firms/Dealers, Unit Trusts, Private Pension Funds and Collective Investment Schemes.

Each institution will determine its requirements for opening a bank account. In the light of anti-money laundering and counter financing of terrorism obligations institutions will require certain due diligence information of clients.

There is a main stock market and a junior stock market in Jamaica.

Import/Export Regulations

Jamaica has been a member of the General Agreement on Tariffs and Trade (GATT) which is currently known as the World Trade Organization (WTO). Although not a member of the European Economic Community (EEC), Jamaica has close economic and political ties with the European Union. Jamaica has signed the Economic Partnership Agreement (EPA) between the European Union and the Forum of the Caribbean Group of African, Caribbean and Pacific States (CARIFORUM), which has the potential to accelerate trade in several areas between both regions. Jamaica is also party to and the leading member of a regional free trade agreement known as the Caribbean Community (CARICOM). CARICOM promotes the integration of the economies of member states through the Caribbean Single market and Economy (CSME) and allows for the free movement of labour, trade and capital.

The determination of value of goods for customs purposes lies with the importer in the first instance and therefore an importer must produce a Declaration of Value along with the import entry for clearance procedures. The Customs Department will verify the value declared to satisfy itself as to the truth or accuracy of the declaration by checking any documentary evidence the importer may have to substantiate the values declared.

Several procedures must be followed in order to clear goods through customs. These include obtaining a Taxpayer's Registration Number (TRN) and a Tax Compliance Certificate (TCC) from Tax Administration Jamaica, obtaining any applicable import licence or ministerial permit; and obtaining customs broker services, if the import value exceeds a stipulated sum, currently US\$5000.00. Import quotas and other restrictions may apply when importing particular products.

Commercial exporting is highly encouraged in Jamaica. Depending on the nature of the exporting activity and the particular goods being exported, an exporter may have to comply with certain local registration requirements as well as obtain government permit(s) and/or licence(s). Export duties are payable on most products and are assessed based on the cost of the goods.

Import licences are required for the importation of certain commodities such as pharmaceuticals and motor vehicles. Additionally, import quotas and other restrictions may apply when importing particular goods such as cement and meat products. Most goods entering Jamaica are subject to customs duties (excluding those products that are zero-rated or specifically exempted items). Goods imported from member countries of CARICOM that satisfy the rules of origin are currently not subject to any customs duty. Stamp Duty and General Consumption Tax Act and/or Special Consumption Tax (SCT) is also payable.

The Customs User Fee is currently applicable to all imports and is calculated on the Cost Insurance and Freight (CIF) value of all goods being imported. The fee is also imposed on the personal and household effects acquired abroad by an arriving passenger who is a Jamaican resident, if the value of these goods exceeds a stipulated amount. There is also a Standard Compliance Fee (SCF) calculated on the CIF value, an Environmental Levy which is applicable to all items that will have an impact on the environment (currently 0.5% of the CIF Value) and a Processing Fees. The importation of items deemed to be indecent

and obscene nature are prohibited. There are no restrictions imposed on the manufacturing of products which contains ingredients or components produced only in Jamaica.

The Bureau of Standards is a statutory body in Jamaica which promotes and encourages standardization in relation to commodities, processes and practices. One of the key mandates of the Bureau of Standards is the standardization of product labeling. The labeling and packaging of commodities must comply with the local requirements set out in the Food and Drugs Act as well as the Standards Act. For example, all labels must be written in the English Language.

Structures For Doing Business

Governmental Participation

The Government is involved in the ownership or operation of certain entities. In one form these are referred to as Public Private Partnerships (“PPP”) in recent years. These PPP’s include the construction of Jamaica’s central highway, the operation and renovation of the Norman Manley International Airport, and most recently the construction of university student housing accommodation.

Joint Ventures are permitted and utilized in Jamaica. The form of joint venture will determine the registration or incorporation procedure. If the joint venture is co-operation is through the vehicle of a company the registration will be at the Companies Office of Jamaica.

Limited Liability Companies

A company may have liability that is limited by shares, by guarantee (and not having a share capital) or and by guarantee and having a share capital. A limited liability company is incorporated in Jamaica by preparing and filing incorporation documents at the Companies Office of Jamaica (COJ). Once approved, the Registrar of Companies will issue a Certificate of Incorporation and assign a company number to the newly incorporated entity. Generally a company can be incorporated within 2 business days after all document have been accepted by the Registrar of Companies.

A limited liability company may be incorporated with one shareholder, one director and one secretary. The sole director cannot also be the secretary. A company cannot have as secretary, a company which is the sole director of that company. There is no requirement for a Jamaican national to be a participant, manager or director in a company incorporated in Jamaica. The registered address of the company must be situate in Jamaica.

The Companies (Amendment) Act, 2013 dated 30th December 2013 resulted in a simplified company incorporation process involving the filing of a Form 1A, 1B or 1C (depending on the nature of the company to be incorporated) the Articles of Incorporation and a Form and a BRF1 - Super Form in order to obtain National Insurance Scheme Clearance, a Taxpayer Registration Number, General Consumption Tax registration, National Housing Trust/HEART Clearance and ultimately a Tax Compliance Certificate issued at the Companies Office of Jamaica.

It is advisable at the outset to search and reserve the proposed company name (for up to 90 days) in order to ensure its availability for registration. The name search and name reservation process generally takes 1 – 2 business days.

The Companies Office of Jamaica generally takes five (5) business days to process an application for incorporation of a company under the Companies Act. The COJ also offers an expedition service for one (1) business day and next business day processing at an additional cost.

Prior to submission, the BRFI – Super Form will need to be signed by each director as well as the subscriber to its Form 1A to 1C – Articles of Incorporation. Original signed documentation is required. There is no requirement for a Jamaican national to be a participant, manager or director. However, at least one (1) director must have a Taxpayer Registration Number or obtain same prior to registration of the company. Generally there are no minimum capital requirements although companies in specific sectors may have to meet specific capital requirements in order to carry or certain types of businesses (e.g banks or public companies).

The Companies Act stipulates that a share shall be paid for in money, or in property or past service rendered for value that is the fair equivalent of the money that the company would have received if the share had been issued for money. Currently there are no capitalization rules though the Minister has announced that such rules are being proposed.

As a result of the various tax registrations outlined above, all employers with twenty (20) or more employees are required to e-file employers' Annual Returns (SO2) and Monthly Statutory Declaration (SO1) as well as other statutory filings and payroll returns in the manner and time prescribed.

Companies registered under the Companies Act (as distinct from companies incorporated under the Act) generally refers to overseas companies with an established place of business in Jamaica registered under Part X of the Companies Act.

Partnerships are permitted in Jamaica, and there is no requirement for a national of Jamaica to be a partner. The Partnerships (Limited) Act (PLA) provides for Limited partnerships which may be established for the transaction of any mercantile, mechanical, agricultural, or manufactory business, by two or more persons, upon the terms, with the rights and powers, and subject to the conditions, limitations, restrictions, and liabilities provided in the PLA. Limited partnerships cannot be formed for the purpose of banking or insurance.

The PLA provides that such partnerships may consist of one or more persons, who will be general partners, subject to the same liabilities and charges, and shall be entitled to the same benefits and advantages, as co-partners are liable to, chargeable with, and entitled to, and of one or more persons who will contribute, in actual cash payments, a specific sum, as capital, to the common stock, who shall be called special partners, but who shall not be liable for, nor chargeable with, the payment of the debts of the partnership, beyond the extent of the fund so subscribed by him or them to the capital of the co-partnership.

The Act further provides that a special partner may from time to time examine the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business in the name or on account of the partnership, nor be employed for that purpose, as agent, attorney, or otherwise; and if any such limited partner shall interfere, contrary to the provisions of the PLA, he shall be deemed and taken to be a general partner.

An investor can also operate as a sole proprietor. A sole proprietor is individually liable for all losses and damages incurred when operating. Laws may require that certain businesses can only be carried on by a company and not by an individual.

Trusts are recognized in Jamaica pursuant to common law. Generally, the instrument (if any) creating the Trust defines the trust. Trustees are regulated by the Trustees Act and the Trustees, Attorneys and Executors (Accounts and General) Act. An investor may be the grantor, trustee or beneficiary. However, the sole beneficiary cannot also be the grantor.

Requirements For The Establishment of a Business

Antitrust Laws

Jamaica's Fair Competition Act, (FCA) regulates anti-competitive business practices, those that are an abuse of a dominant market position or have the effect of lessening competition in Jamaica and establishes the Fair Trading Commission (the FTC). The FTC has the power to carry out investigations in relation to the conduct of business in Jamaica and to determine whether an enterprise is engaging in practices that are in contravention of the Act. The Commissioners have the power to summon and examine witnesses; to call for and examine documents; and to administer oaths. If the Commission determines that an arrangement has contravened certain sections of the Act, they may prohibit the arrangement. In certain circumstances the FTC may also direct the enterprise concerned to take steps that are necessary to overcome any anti-competitive effects resulting from the arrangement. The FTC has power to bring before the Court any business or individual who has been found guilty of anti-competitive practice and has failed to take corrective measures, after being instructed by the Commission to do so.

Government Approvals

As a matter of law, there is no standard business activity in which the Government will seek to participate in by way of direct ownership. However, certain industry-specific business activities will require government involvement in the form of operational approval and regulation; such as mining, telecommunications, securities trading, real estate development, life insurance and financial services. Obtaining government approval can take as long as 120 days and the fees vary depending on the type of business.

Insurance

There are no regulations in Jamaica which makes it mandatory for a business to be insured. It is however highly recommended that all businesses are insured against risks such as fire, hurricane or earthquake. There is currently no state monopoly on insurance.

Operation of the Business

Advertising

The Jamaican Code of Advertising Practice imposes certain restrictions on advertising in Jamaica. It applies to all advertisements for the supply of goods or services or the provision of facilities. The code is self regulatory in nature and is not binding in court but is voluntary and used as a guide in the industry. The Fair Competition Act is an important safeguard for members of the public who choose to do business through the medium of advertising. A person must not, in pursuance of trade for purpose of

directly or indirectly promoting, the supply goods or services or any business interest, make a representation to the public that is false or misleading or is likely to be misleading in a material respect or make a representation to the public in the form of a statement, warranty or guarantee of performance, efficacy or length of life of goods that is not based on an adequate and proper test thereof, the proof of which lies on the person making the representation or makes a false represent to the public in the form of a statement, warranty or guarantee that services are of a particular kind, standard, quality, or quantity or supplied by a particular person or by a person of a particular trade, qualification or skill.

Attorneys

Depending on the nature of the business, it is advisable that local Counsel be retained, to advise on the matters that are to be satisfied in order to ensure that the investor is compliant with applicable legislation.

A database of local attorneys is available online at the General Legal Council's website as well as in our local telephone directories. Unless specifically agreed to the contrary, professional fees are usually calculated based upon what is regarded as being fair and reasonable having regard to all the circumstances of the case.

Bookkeeping Requirements

Companies incorporated under the Companies Act are required to annually lay the accounts of the company before its members in general meeting. The Articles of Incorporation usually outline the procedure for the keeping of local accounts, preparation and inspection of profit and loss accounts, balance sheets and group accounts (if any). It may be necessary for the company to provide its Financial Statements when filing documents relating to the taxes and annual returns. If the company is listed on the Jamaica Stock Exchange there are additional obligations including the requirement that its balance sheet must be published at the end of the financial year.

Accounts must be kept in accordance with the provisions of any applicable legislation and in accordance with the Companies Act. Jamaica has adopted IFRS as the applicable accounting standard.

Business Ethics/Codes

There are business codes that are applicable to certain professions such as journalists (Code of Practice for Jamaican Journalists and Media Organisations) and Accountants (Generally Accepted Accounting Principles).

Consumer Protection Laws

The Consumer Affairs Commission (CAC) is a government agency established to inform, educate and empower consumers about protecting themselves in the marketplace. The CAC operates under the Consumer Protection Act which provides for the promotion and protection of consumer interest, in relation to the supply of goods and the provision of services. All businesses must operate subject to the rules laid down in the Consumer Protection Act.

Construction

Building permits and/or licences are required for construction. Applications must be submitted to the relevant authorities along with the requisite fee which varies depending on the type of construction. Several documents are required to obtain this approval such as the property title and building plans. The cost of construction is dependent on the type of construction being carried out.

Contracts

There are no regulations which prohibit investors from entering into local contracts.

Product Registration

There are a number of products which must be registered with the relevant local authorities before they are distributed for sale in the market. For example, all products that make health claims, including claims that the products are good for treatment of diseases and other health conditions are to be registered with the Ministry of Health. The procedure for applying for registration includes submitting an application form to the relevant authorities along with the requisite fee which varies depending on the type of application and product. The process can take as long as 60-120 days.

Sale of Goods

Our Sale of Goods Act does not impose any restrictions on the manner, time or place of sale of goods but there may be other restriction arising from zoning or noise abatement laws.

Cessation or Termination of Business

It is requirement for a business which has ceased trading to notify the relevant regulatory authority of this fact. The business's filing and taxation obligations may continue notwithstanding the fact that it has ceased trading. For example, a company may apply to the Companies Office of Jamaica to be removed from the Register of Companies provided that the company's filings are up to date, it has ceased trading and has neither assets nor liabilities.

Liquidation of a Company

There are three main methods of winding up/liquidating the assets of a company. Namely:

1. Compulsory winding up/winding up by the Court;
2. Voluntary winding up:
 - a. Members' voluntary winding up;
 - b. Creditor's voluntary winding up; and
3. Winding up subject to the Court's supervision.

Once the company has been successfully wound up and assets liquidated and distributed in accordance with the prescribed ranking of claims, the Registrar of Companies ought to be notified, after which the company will be removed from the Register in due course.

The company's obligations to creditors depend on the assets of the company and the nature of the security held by the creditors. Certain debts, including taxes and employees' wages (not exceeding the prescribed amount), are deemed, by the Companies Act, to be preferential debts.

Insolvency/Bankruptcy

A new Insolvency Act, 2014 came into force on January 1st 2015. The Act aims to preserve viable companies while creating an environment which aids in the rehabilitation of debtors and the protection of the rights of creditors and other stakeholders. It seeks to consolidate the law relating to bankruptcy, insolvency, receiverships, provisional supervision and winding up and repeals the Bankruptcy Act of the 1880s which dealt with individual insolvency and the Winding Up Rules under the Companies Act, which dealt with the winding up of insolvent corporate bodies. The new Act now provides for both corporate and individual insolvency in a single statute.

The new Act contains provisions for the person facing imminent insolvency to work out arrangements with his creditors in order to avoid being bankrupt if he reasonably expects that he will, within a year, be able to meet his obligations as they become due. The new regime provides a modern framework for resolving matters of business insolvency and provides companies that have either fallen into or are on the brink of insolvency with the opportunity to implement viable turnaround strategies, preserve assets.

Labor Legislation, Relation and Supply

Employer/Employee Relations

There are several laws that govern employer/employee relations. These include the Labour Relations and Industrial Disputes Act and the Labour Relations Code, The Employment (Termination and Redundancy Payments) Act, The Holidays with Pay Act (and Regulations), The Minimum Wage Act (and Regulations) and the Maternity Leave Act.

Generally there is no legal obligation to train employees but that is the best practice in Jamaica. The grant of a work permit may impose obligations to hire and train Jamaicans.

Employment Regulations

There is a national minimum wage fixed for certain categories of workers.

The normal work week in Jamaica is 40 hours. Employers may contract with employee to work for more than 40 hours in a week. However, work done after 40 hours in any week may attract overtime payment.

The minimum number of vacation days are 2 normal working weeks per year or 1 day for every 22 days worked if the employee has worked for more than 110 days but less than 220 days. Employees are entitled to an additional week of paid vacation leave after the 10th year of employment with their employer. Contractual arrangements may enlarge this entitlement. Employees are statutorily entitled to a minimum period of sick days.

Hiring and Firing Requirements

There is no statutory minimum number of employees. This depends on the size and needs of the investor. There is no legal requirement to employ a minimum number of nationals.

There are minimum statutory notice periods for termination of employment set out in the Labour (Employment and Termination) Redundancy Act and its Regulations.

Jamaica does not recognize employment-at-will. Thus, in addition to notice of termination of employment, an employer should ensure that the proper procedure is followed where an employee is being terminated for disciplinary matters such as gross misconduct, insubordination or breach of the Company's policies and procedures. In those instances, a charge letter must be given to the employee inviting him/her to attend a disciplinary hearing with a representative of their choice. There must also be a right of appeal from such decisions. Failure to follow these procedures could result in claims for unjustifiable dismissal being brought.

There are no set rules in relation to hiring practices. However, the general non-discrimination obligation applies which is a function of our Constitution and industrial relations practice and procedure both locally and internationally.

There is no continuing obligation towards an employee who has been dismissed and who has been paid for the sums due consequent upon his/her dismissal.

Labor Availability

Historically Jamaica has had adequate unskilled labour. The traditional professions such as medicine, law, engineering and accounting are produced at a rapid rate by Jamaica's standards. Jamaica has a wide cross-section of skilled and unskilled labour. However, the depth of such labour will depend on the particular industry and skill.

Labor Permits

All non-Jamaicans seeking to work in Jamaica must obtain a work permit. However, there are certain persons eligible for work permit exemptions such as expatriate nationals with Jamaican spouses, diplomats and CARICOM nationals with a CARICOM skills certificate.

Foreign nationals, require a work permit and a visa in order to engage in any occupation in Jamaica for reward or profit or be employed in Jamaica. An application for a work permit should be addressed to the Minister who at his discretion may grant the work permit. The Application, must be accompanied by certain information including, certified documentary proof of the Applicant's qualifications, the proposed employer's constituent documents (i.e. certified copies of the company's Certificate of Incorporation and Articles of Incorporation) and the proposed employer's Tax Compliance Certificate; letter from the prospective employer indicating the efforts made to recruit Jamaican nationals; police record from the applicant's place of domicile; Tax Payer Registration Number (TRN) signed by the applicant; and the Applicant's resume outlining his professional and business experience.

Individuals are treated by the Passport, Immigration and Citizenship Agency as 'visitors' in accordance with the entry requirements applicable to visitors from their respective countries. Therefore, if applicable, the applicant will be required to obtain a visa from the Jamaican Embassy/High

Commission/Consulate General/ Consulate in his/her home country to engage in any occupation in Jamaica for reward or profit or be employed in Jamaica.

The work permit must be endorsed in the Applicant's passport by visiting the offices of the Passport, Immigration and Citizenship Agency.

The Ministry of Labour and Social Security asserts that the work permit application process takes between four (4) to six (6) weeks. For additional information see below under heading Work Permits.

Safety Standards

Jamaica does not have a general occupational health and safety legislation like some other countries do. However, there are certain specified regulations regarding safety in particular industries. They are The Factories Regulations 196, The Building Operations and Works of Engineering Construction 1968 and The Ship and Docks Regulations 1968. At common law, all employers have a duty to ensure that there is a competent staff of men within the work place, adequate plant and equipment for the performances of tasks, a safe system of work and a safe place of work. An employer must act reasonably in ensuring that these duties are performed.

Trade Unions

Jamaica has a history of strong union representation on behalf of employees, particularly in respect of employees below the managerial level. Unions are recognized under local laws and exist in varying degrees in every major industry in Jamaica. Registered unions may apply for bargaining rights on behalf of employees in any industry in Jamaica.

There is no obligation on the part of an employer to organize unions. However, if an application is made by a union for bargaining rights on behalf of employees, an employer has two options: The employer can either recognize the union as having bargaining rights in respect of the categories of employees claimed for or elect for a poll to be held to determine whether more than 50% of its employees wish the union to have bargaining rights. It should be noted that the right for employees to have union representation is entrenched in the Jamaican Constitution and any attempt to prevent employees from joining a union or engage in union activities is a criminal offence.

There are a number of Trade Unions in Jamaica who may have bargaining rights over their members. They include (1) the National Workers' Union (NWU), the Union and Allied Workers Union (UAWU), The Bustamante Industrial Trade Union (BITU), the Union of Technical Administrative and Supervisory Personnel (UTASP) and the Jamaica Confederation of Trade Unions (JCTU).

Collective Agreements are not mandatory but are generally present when workers are members of a Union and said Union exercises bargaining rights in relation to those workers or those categories of workers.

Tax on Corporations

Major allowances include capital cost depreciation for industrial buildings, plant and machinery, motor vehicles and certain intangibles. Major deductible items are interest incurred in acquisition of capital, real estate taxes, business losses, approved pension contributions and allowances and salaries. Personal expenses are generally not deductible.

Calculation of Taxes

Taxable income of a Jamaican company is determined based on the worldwide income of the company subject to allowable exemptions and deductions permitted under the provisions of the Income Tax Act. A non-resident corporation is subject to income tax on its income from Jamaican sources if it carries on a trade in Jamaica, or has an office or place of business in Jamaica, or derives income from any source in Jamaica.

Capital Gains

Gains on the disposal of capital assets are not subject to income tax. However, dispositions of certain assets are subject to transfer tax on the market value. Transfer tax is currently charged at a rate 5% of market value. Where payment of the dividend is made to a foreign investor and there is a treaty in effect between Jamaica and the payee country, the lower treaty rates may apply.

Filing and Payment Requirements

Annual returns and final payment for income tax are due on March 15 of the following year. Companies are required to calculate their estimated income and the applicable tax for each year and pay the relevant tax in four (4) quarterly installments by March 15, June 15, September 15 and December 15 of each year.

Miscellaneous Taxes Due

There are several miscellaneous taxes, including assets tax and the minimum business tax some of general application and others applicable to specific sectors or types of business. Payroll related taxes or payments required of employers include contributions to the Human Employment and Resource Training (HEART) Trust at 3% of employee's salary, National Insurance Scheme contributions at 2.45% of employee's salary, Education tax at 3% of the employee's salary and National Housing Scheme contributions at 3% of the employee's salary.

Registration Duties

Registration fees are payable for the incorporation of a company. There are also registration fees that are payable when certain documents are filed with the Companies Office of Jamaica, including the annual return and notices filed with respect to certain corporate actions as required by the Companies Act. Such actions include an increase in capital that will also attract stamp duty at the rate of 1% of the amount of the increase.

Transfer Tax, Stamp Duty and registration fees are generally payable on the transfer of corporate assets including its shares, unless there is an applicable exemption. Transfer tax is charged at the rate of 5%. Stamp Duty and registration will depend of the nature of the transaction and asset concerned.

Sales Tax or other Turnover Tax

General Consumption Tax is charged at the rate of 16.5% on most goods and services. GCT returns and payments are due on or before the last day of the month following the return period. Outstanding balance (inclusive of interest, penalty and surcharge) multiplied by 2.5% until fully paid

Businesses whose total annual sales of goods and services are \$3M and over for a twelve-month period are required to register as Registered Taxpayers, and will collect and remit GCT. Registered Taxpayers who supply taxable goods or services will pay GCT on their purchases and charge GCT on their sales. If the GCT charged is more than the GCT paid, the difference is to be paid to the Collector of Taxes (Tax Administration Jamaica), if it is less, the Registered Taxpayer may claim a credit/refund. For an illustration of how GCT works see:

http://www.jamaicatax.gov.jm/images/publications/gct/gct_related/how_gct_works.pdf

Social Security and Welfare System Contributions

Social Security Contributions, Education tax and contributions to the Human Employment and Resource Training (HEART) Trust, and National Housing Trust contributions are required at the rates stated in E above). Retirement and pension contributions are not required.

Returns in respect to these contributions are to be filed monthly (within 14 days of after the end of each month) and payments are to be remitted monthly to the authorities.

Tax Treaties

Jamaica has double taxation treaties with Canada, the Caribbean Community, Denmark, France, Germany, Israel, Norway, Peoples Republic of China, Spain, Sweden, Switzerland, the United Kingdom and the United States.

Territoriality Rules

Generally a company is subject to tax where it resident for tax purposes and is generally subject to tax on its worldwide income.

Treatment of Tax Losses

All businesses, whether operated as an individual, partnership or company, are required to file a tax return even if the business makes a loss. Currently the law allows for business losses to be carried forward indefinitely and may be used to off-set future profit. The new fiscal regime provides that while tax losses will continue to be carried forward indefinitely taxpayers will be allowed to offset no more than 50% of the chargeable income (before taking into account the losses) in any year.

Withholding Taxes

See table below published by Tax Administration Jamaica.

Income Tax – Withholding Tax on local payments

TYPE OF WITHHOLDING TAX	RATE
Withholding Taxes - Interest paid locally	25% of gross
Withholding Taxes - Dividends (Residents)	5% of gross
Withholding Taxes - Dividends (Non-Residents; Treaty rates is applied where necessary)	*33.33% & 25% of gross
Withholding Taxes - Directors Fee	25% of gross
Withholding Taxes - Pensions	25% of gross
Withholding Taxes on interest - quarterly	25% of gross

Income Tax – Withholding Tax on payments to non-residents

Country	Dividends Portfolio Investment	Dividend Substantial Holdings	Interest	Royalties	Management Fees	Other Sources
Canada	15%	22.50%	15%	10%	12.50%	*33.33% & 25%
Caribbean Community	0	0	15%	15%	15%	*33.33% & 25%
Denmark	15% & 10%	10%	12.5%	10%	10%	*33.33% & 25%
France	15% & 10%	10%	10%	10%	10%	*33.33% & 25%
Germany	15% & 10%	10%	^10% & 12.5%	10%	*33.33% & 25%	*33.33% & 25%
Israel	22.5% & 15%	15%	15%	10%	*33.33% & 25%	*33.33% & 25%
Norway	15%	15%	12.50%	10%	10%	*33.33% & 25%
Peoples Republic of China	5% & 0%	5%	8%	10%	*33.33% & 25%	*33.33% & 25%
Spain	10%	5%	10%	10%	10%	*33.33% & 25%
Sweden	22.5% & 10%	10%	12.5%	10%	10%	*33.33% & 25%
Switzerland	15% & 10%	10%	10%	10%	10%	*33.33% & 25%
United Kingdom	15% & 22.5%	22.5%	12.5%	10%	12.50%	*33.33% & 25%
Other Countries	*33.33% & 25%	*33.33% & 25%	*33.33% & 25%	*33.33% & 25%	*33.33% & 25%	*33.33% & 25%
* Rates 33.33% & 25% relates to payments to companies and individuals respectively						
^ 10% if received by bank & 12.5% in all other cases						

Tax on Individuals

Allowances

Actual expenses wholly and exclusively incurred by the individual in acquiring the income, which were not reimbursed by the employer, may be claimed here. Non-resident persons are not entitled to the tax-free amounts arising from the tax threshold.

In the case of self employed individuals income for income tax purposes includes profit or gain from business, trade, profession, vocation, rent, interest, dividends, and the like. Deductions allowed may include wages and salaries for staff, rental paid for business premise, interest paid towards bank loans/overdrafts used for business purpose, transportation expense and other expenses incurred in the production of business income. Private/domestic expenses would not be allowed.

Filing and Payment Requirements for Individuals

For employees, income tax is deducted under the PAYE system and paid monthly to the tax authorities. Taxpayers whose incomes consist solely of employment earnings are not normally required to file regular annual returns. For self-employed individuals or employees with income otherwise not subject to PAYE, annual returns are due on March 15 of the following year. Such individuals are required to calculate their estimated income and the applicable tax for each year and pay the amount to the in four (4) quarterly installments by March 15, June 15, September 15 and December 15 of each year.

Inheritance and Gift Tax

Transfer tax is generally due on the transfer of land and shares from the estate of a deceased person domiciled in Jamaica to his beneficiaries. The deemed consideration is the market value at the date of death. Exemptions may be available for the matrimonial home.

Miscellaneous Taxes Due

Self-Employed individuals are subject to Education Tax at a 2% rate, National Housing Trust contributions at 2% and National Insurance Scheme Contributions at 2.45%. Employers are required to withhold these taxes and pay them over on behalf of employed persons.

Real Estate Tax

Property Tax is due and payable on the 1st day of April in each year. There are provisions in the Property Tax Act that allows for payment in two or four equal installments. These become due April 1 and October 1 and April 1, July 1, October 1 and January 1 of the following year respectively. Penalty of ten percent (10%) is payable if tax is not paid within the month of April. Interest of fifteen (15%) is charged per annum on overdue tax, that is if the tax remains unpaid for a period of thirty (30) days after the collection date. Interest is charged per annum until taxes are paid in full. Residential and commercial properties in Jamaica are subject to property tax although certain properties such as those used exclusively for public religious worship are exempt from this tax. Property Tax is a tax charged on the unimproved value of the land.

Immigration Requirements

There are no published immigration quotas.

Immigration Requirements/Formalities

For persons who are not visiting evidence of temporary residence or permanent residence is required. Permanent Residence is a status one can apply for to allow them to live and work in Jamaica indefinitely without the need of a work permit. Persons can apply for Permanent Residence on the following basis:

employment, marriage to a Jamaican national or retirement for persons who no longer work in their home country and are desirous of living in Jamaica.

Temporary Residence is where a foreign national resides in Jamaica by way of being a Student, Employment, Marriage to a Jamaican and being a dependent on an individual who works in the Island.

All non-national travelers to Jamaica must present the following documents to officers for Immigration clearance: a valid passport or other acceptable travel document, a valid visa or authority to enter Jamaica (including work permit, student permit, temporary permit) and, a completed and signed Immigration Landing Card. Anyone who arrives without a valid travel document, visa or authority to enter Jamaica, may be refused entry to Jamaica or delayed until their identity and claims to enter Jamaica have been confirmed.

Permanent Residence

In order to submit an application for Permanent Residence, documents must be original and where applicable not older than six (6) months.

The documents needed are:

- a. Valid National passport (if the applicant is not from the Commonwealth, then a valid entry visa must be present in the passport to apply)
- b. Evidence of financial status and means of support – e.g. Particulars of pension, bank account, property owned and business investments;
- c. Birth Certificate of Applicant – original
- d. Birth Certificate of Jamaican spouse if married to a Jamaican
- e. Marital Status – Marriage Certificate – particulars of spouse, children and other dependents
- f. Local Medical Certificate – Certificate of Good Health
- g. Police Certificate from the state from which you are migrating; one from Jamaica if living in the Island for six months or more
- h. Two identical passport size photographs certified by Justice of the Peace
- i. Letter stating reasons for seeking permanent residence in Jamaica
- j. Letters of recommendations from two (2) references in Jamaica
- k. Complete an Extension of Stay form
- l. Processing fee of Thirty Thousand Jamaican Dollars (\$30,000.00)

In addition to the above requirements applicants must show evidence that that his/her primary place of residence will be Jamaica, be residing in Jamaica for a minimum of three (3) years if he/she is the holder

of a work permit, and have an entry visa and police record from his/her country from which they are migrating if applying on the basis of retirement.

Temporary Residence

One can apply for Temporary residence by anyone of the following means: Various Extension Of Stays – Visitor, Student Permit, Employment, Marriage, Dependency. Extensions of stay are usually processed with three (3) working days.

Where a foreign national is engaged in gainful employment he/she must present to the Passport, Immigration and Citizenship Agency a valid passport , work permit/exemption/receipt/letter from the Ministry of Labour and Social Security, and entry visa (where applicable. Where a foreign national does not work but is a dependent on a spouse or parent who works in the Island the following must be submitted a valid passport , the principal applicants passport, work permit/exemption letter from Ministry of Labour or Citizenship Certificate, documents establishing relationship e.g. Marriage Certificate, Birth Certificate/Adoption Certificate, and entry Visa (where applicable) .Visas

Visas

The following foreign nationals are required to obtain visas prior to arrival: Afghanistan, Algeria, Angola, Bahrain, Benin, Bhutan, Bolivia, Larry Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, China, Colombia(Waiver In Effect), Comoros, Congo, Cote D’ Ivoire, Cuba, Dem. Peoples Republic Of Korea (North Korea), Djibouti, Dominican Republic, Egypt, El Salvador, Eqatorial Guinea, Eritrea, Ethiopia, Gabon, Guatemala, Guinea, Haiti, Honduras, Indonesia, Islamic Republic Of Iran, Iraq, Jordan, Kuwait, Lao Peoples Dem. Rep, Lebanon, Liberia, Libyan Aram Jamahiriya, Madagascar, Mali, Marshall Islands, Mauritania, Micronesia, Mongolia, Morocco, Myanmar, El Salvador, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, El Salvador, Palau, Paraguay, Peru, Philippines, Qatar, Samoa, Sao Tome & Principe, Saudi Arabia, Senegal, Somalia, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Togo, Tunisia, United Arab Emirates, Vietnam and Yemen. The investor will be required to obtain the visa from the Jamaican Consulate or Embassy in his/her home country.

Other countries may receive visas on arrival. For a complete list of those countries see http://www.pica.gov.jm/?page_id=2330

Drivers' Licenses

Foreigners making only a temporary stay in Jamaica (normally less than 6 months) will be permitted to drive on local roads, if that foreigner produces to the Traffic Area Authority a driver’s licence issued to him/her not longer than 12 months before by the competent authority in the country from which he comes. If the foreigner stays in Jamaica beyond six months that foreigner will be required to apply for a local driver’s licence in accordance with sections 16-18 of Road Traffic Act.

The foreigner will need to make an application for a driver’s licence to the Licensing Authority of the area in which the foreigner will be staying or residing. This application can be obtained from any Tax Office. The applicant must pay the prescribed fee and have a TRN. The applicant must also obtain a Certificate of Competence from the Traffic Area Authority certifying that the applicant-

- a. is able to speak English;

- b. has complied with the provisions of the Road Traffic Act, paid the prescribed fees for a driver's test and, has passed or been exempted from such a test;
- c. is at least 17 yrs old;
- d. has produced to the Traffic Area Authority a certificate from a Justice of Peace or a Superintendent of police certifying that he or she is a fit or proper person; and
- e. the applicant will need to make a declaration in the prescribed form that he/she is not suffering from any such disease or physical disability which would be likely to cause the driving by him/her of a motor vehicle to be a source of danger to the public.

Education

Education in Jamaica is primarily modeled on the British System. There are generally four levels of education in Jamaica: early childhood, primary, secondary and tertiary. An investor's family will have access to all levels of education offered in schools. Foreign investors or companies do not receive tax benefits for education.

Housing

A foreign investor can own property in Jamaica.

Importing Personal Possessions

The Customs Tariff allows for each passenger to receive duty concessions in respect of the following:

- Instruments and tools to be used for the purpose of their profession, trade, occupation or employment, provided that the items have been in the passengers' possession and bona fide use for a reasonable period;
- Tobacco and some potable articles including wines and spirits in the baggage or on the person which they might reasonably be expected to carry with them for personal use, in such quantities as the Commissioner may from time to time approve;
- Used household effects which have been in the passenger's use for a reasonable period of time and are not imported for sale;

A passenger who is eighteen (18) years or older and who is the holder of a Jamaican passport or is ordinarily resident in Jamaica is entitled to additional duty concession in respect of other personal or household effects not specified above which the proper officer is satisfied are not imported for sale or commercial exchange and do not exceed US\$500 in total value. This concession will not be granted to a person who has been permitted duty free importation under this section within the six-month period immediately preceding the date of return to Jamaica.

There are requirements for clearing belongings through customs and permits maybe required. The services of a reputable freight agent in Jamaica are therefore recommended.

Medical Care

In keeping with the World Health Organization philosophy of health as a fundamental right of every citizen, the Government is keen on providing universal access to quality care at the primary level. Every Jamaican and non-Jamaican has access to medical care.

Public health care is fully subsidized by the government. Private doctors and clinics are widely available to all, however these institutions are not subsidized by the Government.

Work Permits

As mentioned before the law prohibits foreign nationals or commonwealth citizens other than a CARICOM national falling within the category specified in the Schedule to the Foreign Nationals and Commonwealth Citizens (Employment) Act (the “Act”) to engage in any occupation in Jamaica for reward or profit or be employed in Jamaica without a valid work permit. Where, the Act defines “foreign national” as a person who is not a citizen of Jamaica, a Commonwealth citizen or a CARICOM national.

However, based on the amendment to the Foreign Nationals and Commonwealth Citizens (Employment) Exemptions Regulations certain categories of individuals who conduct business in Jamaica may work in Jamaica as visitors without work permits for stays not exceeding 30 consecutive days per visit and no more than six (6) cumulative months in any calendar year:

1. Directors, inspectors or auditors of any entity (incorporated or established in Jamaica or elsewhere) that (a) operates in Jamaica; or (b) controls any entity (incorporated or established in Jamaica or elsewhere) that operates in Jamaica; or
2. Persons who visit Jamaica on behalf of a principal who is not in Jamaica, in connection with the appointment of, or for the purpose of having business consultations with, a business agent or distributor that is based in Jamaica; or
3. Persons who visit Jamaica to inspect plants, machinery or equipment of any factory or to carry out other industrial work, or to give technical advice on the operation of any undertaking, business or enterprise of whatever kind that is based in Jamaica.

It is our understanding that in practice such individuals are treated by the Passport, Immigration and Citizenship Agency as ‘visitors’ in accordance with the entry requirements applicable to visitors from their respective countries.

Recent reform has taken place in the area of the grant of work permits. The new fee structure is based on a categorization of economic sectors with different fees applied to each group. The general permit fee has been abolished to introduce several categories of employment under which various fees are to be paid, based on the skill set demand. It is not yet clear in practice whether this will result in a decrease in work permits granted for individuals performing certain tasks and we await further advice from the Ministry.

It should be noted that the Work Permit Application requires the proposed employer to detail its staff composition. The Ministry of Labour and Social Security has indicated that they will consider the staff composition in evaluating the work permit application and the Prospective Employer may be required to provide evidence that they have taken steps to employ a Jamaican national albeit these steps were unsuccessful. These steps can include placing advertisements, contacting an employment service or internal recruitment.

