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Property Transfer Tax and Stamp Duty

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Georgia State University ANDREW YOUNG SCHOOL OF POLICY STUDIES

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Property Transfer Tax and Stamp Duty

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Abstract

The stamp duty and property transfer tax in Jamaica yielded less than J$4 billion in revenues in 2003. As a percent of GDP, and as a percent of total taxes raised, there has been a long term decline in revenue from these two sources. However, even though these taxes do not dominate the revenue structure, they often figure prominently in discussions about what is wrong with Jamaica's tax system.

There are many problems with the stamp duty and property transfer tax and there have been calls for their elimination. Why have they been retained? Even at only about 4 percent of total taxes, they account for a significant amount of revenue. In fact, in 2002-2003, revenues from these two taxes were equivalent in amount to 22 percent of collections from the domestic portion of the GCT. Another justification for these taxes is that they plug a hole in a leaky tax enforcement system, and capture some Jamaicans who may escape the income tax net.

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PROPERTY TRANSFER TAX AND STAMP DUTY

Executive Summary

The stamp duty and property transfer tax in Jamaica yielded less than J$4 billion in revenues in 2003. As a percent of GDP, and as a percent of total taxes raised, there has been a long term decline in revenue from these two sources. However, even though these taxes do not dominate the revenue structure, they often figure prominently in discussions about what is wrong with Jamaica's tax system.

There are many problems with the stamp duty and property transfer tax and there have been calls for their elimination. Why have they been retained? Even at only about 4 percent of total taxes, they account for a significant amount of revenue. In fact, in 2002-2003, revenues from these two taxes were equivalent in amount to 22 percent of collections from the domestic portion of the GCT. Another justification for these taxes is that they plug a hole in a leaky tax enforcement system, and capture some Jamaicans who may escape the income tax net.

Problems

Some would say that stamp duty is a levy whose time has passed as an efficient revenue generator. Likewise, the property transfer tax may generate revenue, but it is a poor surrogate for a capital gains tax on land. Others would go further and argue that neither the stamp duty nor the property transfer tax is administered efficiently or fairly and that they do harm to the Jamaican economy.

Compliance

About three-fourths of revenue from the two taxes is attributable to taxes on real estate. The relatively high, combined rate of 13 percent on a real property transfer is a significant disincentive to report the true sales value, hence there is almost certainly widespread under-declaration. Moreover, the declared value of a transaction (the "consideration") is automatically accepted as the base of the stamp duty. In a sense, the stamp duty on a property transfer might be likened to a tax on honesty. The property transfer tax is a somewhat different story. Because the legal base of the tax is the market value of the property, the self-declared value may be challenged by the Stamp Office and the taxable value revised.

The conclusions we draw from an analysis of data of over 26,000 transactions during the 2001-2003 period are that (a) the likelihood of being "audited" because of an under-declared value is not high (about 7 percent according to these data), and (b) the resulting upgrade in value will exceed 100 percent in only about one-half the cases. Under these circumstances, one would expect a low rate of voluntary compliance in declaring true market values.[1]

Economic Impacts

The 13 percent tax rate on the true market value of a transaction could produce quite an onerous burden. This could encourage the holding of tracts of land, finding means of transfer to avoid the tax, or could stimulate an aggressive appeal for discretionary relief. It has been argued that all three events occur in Jamaica.

[1] The Stamp Office disagrees with these results and argues that the data provided by Fiscal Services do not include a large number of transfers.

A more bothersome issue in many countries, including Jamaica, are the problems associated with taxing shares and other financial instruments. First, the cost of transactions will be increased and this could reduce the volume of transactions and slow the flow of resources to where they are most productive. Second, a less well-functioning capital market could lead to capital flight. Third, the development of secondary markets for commercial paper could be discouraged.

Horizontal Equity: Discretionary Waivers

Perhaps the most serious form of horizontal inequity arises out of the practice of granting discretionary waivers. These waiver applications apparently are considered by the Ministry of Finance on a case-by-case basis and decisions are based on judgments about the merits of each case. About 80 percent of applicants are successful. As well-intentioned as the discretionary waivers might be, they do introduce an element of subjectivity and therefore unfairness into the tax system. Reaching a conclusion about the cost of discretionary waivers is difficult. In some years they are nominal, e.g., in the J$45-J$50 million range in 2002-2003. In other years (e.g., 2001 and 2004) they have reached into the hundreds of millions of J$ range.

Vertical Equity

We cannot comment on the progressivity of the property transfer tax and the stamp duty because we have no way of connecting the amount of taxes paid to income level. We can note, however, that about 45 percent of all taxes on property transfers are paid by owners of properties that are valued at less than J$5 million. About one third of total taxes are paid against transfers of property with values above J$10 million. These

results might lead one to speculate that the tax falls most heavily on middle and upper income Jamaicans.

Linkages with the Property Tax

Administration of the property transfer tax and the property tax ought to reinforce one another. In practice, there is not a good flow of information between the Land Valuation Department and the Stamp Duty Office. The Land Valuation Department proposes to charge the Stamp Office for certain reports, and the Stamp Office is not prepared to issue certain other data to the Land Valuation Department. Property identification numbers are not recorded by the Stamp Duty Office, hence there is no easy match between assessed land values and property transaction values. Such problems stand in the way of what should happen, i.e., a supporting program between the two units.

Reform Choices

In Jamaica, as in most countries, stamp duties and property transfer taxes have been retained in the tax system primarily to protect revenue. However, as noted above, these taxes cause economic distortions and impose unwanted compliance costs. On the other hand, if they were properly administered, they could lead to a significant administrative cost. Most of the problems with these taxes relate to the tax on transfers of real property where the combined rate is 13 percent.

Option #1: Do Not Change Anything

There is not a great outcry for reforming the stamp duty and property transfer tax. They are a significant irritant, particularly to the business community, but there does not

appear to be a grassroots movement to eliminate these taxes, or even to put them through a major reform. The revenues generated are not dominant in the Jamaican system, but at about 4 percent of total taxes, they are significant. To replace these or to cut expenditures by an equal amount would be painful. Most countries manage to live with some level of stamp duties and property transfer taxes, despite their shortcomings.

<u>Option # 2:</u> Retain the Stamp Duty and Property Transfer Tax but Reform their Most Objectionable Features

Some structural adjustments to address the most objectionable features might be considered. These might include the following six changes:

1. Eliminate the stamp duty on property transfers, and replace it with an equivalent rate on the property transfer tax.

2. Institute a deduction of J$1 million for property transactions. At present, properties with a value of J$1 million or less account for about 34 percent of the parcels that are taxed, but pay only about 5 percent of total taxes. This threshold seems too low. Our best estimate is that the revenue cost of raising the threshold to J$1 million would have been J$635 million in 2002/2003, or about 26 percent of current year liability. The challenge would be to recover this lost revenue. One option would be to increase the GCT rate from 15 percent to 15.3 percent.

3. Eliminate the practice of giving discretionary waivers. This reform might save up to 5 percent of revenues or about J$215 million in 2003-2004.

4. Eliminate the tax on all transfers of shares and eliminate the duty on other financial documents such as mortgages and bills of exchange.

5. Mandate coordination between the Land Valuation Department and the Stamp Duty Office for sharing data on property values, and for exchange of valuation expertise.

6. Use an audit selection approach to increase the effectiveness of challenges to declared market values.

Option # 3: Abolish all Stamp Duties and Abolish the Property Transfer Tax

A reform option that many would find appealing is the total elimination of the stamp duty and the property transfer tax. The Stamp Duty Office would still serve its function of providing a legal basis for documents, and would levy a nominal charge that would be set to cover the cost of Stamp Office operations. A separate decision would need to be taken about estate duties. In effect, all taxes on real estate transfers, shares, capital distributions and "other duties" would be eliminated. The revenue cost at 2002-2003 levels would be about J$2.8 million. To replace this revenue loss in 2002/03 would require an increase in the GCT general rate from 15 percent to 16.5 percent, or an increase in the average property tax rate from 0.16 percent to 0.68 percent of land value.

Option # 4: Abolish all Taxes on Property Transfers

A fourth option is to abolish the property transfer tax and all stamp duties on conveyances, but otherwise leave the stamp duty rate schedule intact. The main changes here would be the elimination of any taxes or duty on the sale of real property, shares, or certain financial instruments (e.g., mortgages, bills of exchange, etc.).

This reform would eliminate the economic distortions associated with taxing sales of property, eliminate the compliance and administrative costs of these taxes, and reduce the unfairness that comes with granting favored treatment to certain types of property transactions and discretionary waivers to others.

We estimate that the revenue loss would have been J$2.4 billion in 2002-03. To make this up would require an increase in the GCT rate from 15 percent to 16.3 percent, or in the average property tax rate from 0.16 percent of land value to 0.61 percent.

Herein lies another problem with abolishing this tax: if the revenues were made up with an increased GCT rate, the reduced tax burden for 9,745 property owners would be covered by an increase that would be spread across the entire Jamaican population.

Option # 5: Reduce the Tax Rate on Property Transfers

Another option is to lower the property transfer tax rate to 3 percent (from 7.5 percent), and to eliminate the 5.5 percent stamp duty on property transfers.

This option would have imposed a revenue cost of J$1.8 billion in 2002-2003. The revenue cost could be made up with an increase in the general GCT rate from 15 percent to 16 percent, or with an increase in the average property tax rate from 0.16 percent to 0.5 percent. Lowering the rate to 5 percent would impose a J$1.5 billion revenue cost and require an increase in the GCT rate to 15.8 percent, or an increase in the average property tax rate to 0.4 percent. It also would keep some of the owners of the highest valued properties in the transfer tax base. The main disadvantage is that it would leave the transfer tax in place and the administrative apparatus for re-valuation etc., could not be eliminated.

Option #6: Introduce a Capital Gains Tax on Land

Another choice would be to eliminate the transfer taxes and introduce a capital gains tax on land sales. There are advantages to this option. It would rationalize the taxation of real estate transfers, and it would eliminate a part of the hole in the income tax by taxing some capital gains. A capital gains tax on land would probably be progressive

in its burden distribution, because land is owned disproportionately by higher income persons.

There would be disadvantages to this option. First, there would be a revenue loss, even at high statutory rates of tax. A new administration burden would be placed on Government, but with appropriate cooperation of the Land Valuation Department, the land registration office, and IRD, this could be manageable. However, if it were proposed to include total property value in the capital gains base, it would impose a more significant administrative burden and one that the government tax administration is not presently equipped to handle successfully.

Table ES-1: Stamp Duty and Property Transfer Tax: Implications of Reform Options[a]

	# 1	# 2	# 3	# 4	# 5	# 6
	No Change	Unified Rate, J$1 million Threshold, Eliminate Waivers	Abolish Stamp duties and the Property Transfer Tax	Abolish Taxes on Property Transfers	Eliminate Stamp Duty on Real Property Transfers and lower the Property Transfer Tax Rate to 3 percent	Eliminate all Taxes on Property Transfers and Introduce a Capital Gains Tax on Land
Revenue Consequences (in million J$)	-	-635	-2,823	-2,427	-1,865	Significant revenue cost
Required increase in GCT rate (from 15 percent)	-	15.3	16.5	16.3	16.0	Probably 16 percent
Vertical Equity[b]	-	More progressive	Reduce progressivity	Reduce progressivity	Reduce progressivity	Improved/No change[c]
Horizontal Equity	-	Improved	Improved	Improved	No Change	Improved
Administrative Costs	-	Lowered	Lowered	Lowered	No Change	Increased
Economic Effects	-	No impact	Positive	Positive	Positive	Positive[c]

a) Impact are simulated based on 2002/2003 data.
b) Does not take into account the method used to replace the revenue loss.
c) Depends on tax rate chosen for capital gains.

Property Transfer Tax and Stamp Duty[1]

Introduction

In this paper we consider two separate taxes, the stamp duty and the property transfer tax.[2] The stamp duty is a charge for certifying documents, but also has taken on the role of a sales tax on certain transactions. The property transfer tax is levied on the sale of properties (mostly real estate and shares). Though constituted under separate legislation, these taxes are jointly administered by the Stamp Duty Office. The most important point of overlap is that both taxes are levied on the sale of real estate.

The stamp duty and property transfer tax in Jamaica yielded less than J$4 billion, only about 4 percent of total tax revenues in 2003. Though these taxes are not major sources of revenue, they often figure prominently in discussions about what is wrong with Jamaica's tax system. In this paper, we discuss the justification for these taxes, evaluate their favorable and unfavorable impacts, and consider options for reform.

Description of the System

Tax Base

Stamp duties are charged for registering and legalizing documents/conveyances. The list of documents subject to duty is laid out in great detail in *The Stamp Duty Act*, along with the (specific) rates applicable to each type of document. The illustrative listing in Box 1 gives some idea of the range of documents that are subject to duty. Further, in the case of each category of document or conveyance, there is explicit detail

[1] Bayar Tumennasan provided valuable research assistance in the preparation of this paper.
[2] We do not consider customs inward warrants in this paper.

in *The Act* about what is subject to the stamp duty and what is exempt. Stamp duty is also levied on certain sales. In the case of real property transfers, the stamp duty rates are *ad valorem* and are levied on the transfer value ("consideration")[3].

Box 1: Objects of Stamp Duty Selected Examples

Leases	
Repurchase of Annuities	Company Shares
Domestic Airline Tickets	Licenses
Promissory Notes	Mortgages
Bills of Lading	Patents
Bonds	Naturalization Certificates
Conveyances	Insurance Policies
Customs Warrants	Promissory Notes
Exchanges	Property Settlements
Deeds	Shares
Power of Attorney	Travel Tickets
	Bank Withdrawal Slips

Source: *Stamp Duty Act*

The property transfer tax is levied on the transfer of real property, whether by sale, gift or inheritance, and on land leases. Transfers of shares of private companies are also subject to the property transfer tax, but shares traded on the Jamaica Stock Exchange are not taxable when transferred. Apparently, no other sales are subject to property transfer tax. The base of the property transfer tax is the market value of the property

[3] The *Act* seems to equate "consideration" and "value" where the former appears to refer to the sales price. "76A. (1) Subject to the provisions of this section, any instrument whereby property is conveyed or transferred to any person in contemplation of a sale of that property shall be treated for the purposes of this *Act* as a conveyance or transfer on sale of that property for a consideration equal to the value of that property."

being transferred. *The Act* defines market value as the price which such property might reasonably be expected to fetch in a sale in the open market.[4]

The tax on real property transfers is self-assessed by taxpayer declaration of market value. In the case of the stamp duty, this self assessment is accepted without challenge. In the case of the property transfer tax, the determination of market value, either of real property or of shares, is more complicated. The parties to the transfer generally declare only one value when registering a sale of real property, the "consideration". However, the tax rate on this "consideration" (13 percent combined for stamp duty and property transfer tax) is high enough to provide a significant incentive for understatement of the true amount of any arms length sale. Stamp Office officials report that a significant proportion of declared values are challenged, and independent valuations are carried out for the property transfer tax (see below).

Neither is the determination of the value of taxable shares a straightforward matter. There are no hard and fast rules about how the value of shares should be measured, but the goal is to establish a true market value. The Stamp Duty Office holds to the view that they must value the company, and generally use book value as a baseline measure when they do not accept the self-reported amount.[5]

[4] Detail is provided in *The Stamp Duty Act*, Sections 2 and 3. The definition is as follows: ' " market value", in relation to any property, means (except as otherwise provided by this Act or any regulations thereunder) the price which such property might reasonably be expected to fetch on a sale in the open market.'

[5] The Property Transfer Tax Regulation makes provision for an alternative calculation of the tax base as capital gains, but it is reported that this is very rarely used.

Tax Rates

The Stamp Duty rates are mostly specific and are prescribed in a detailed rate schedule in *The Act*. There are a great number of different rates and in many cases, the amounts charged are nominal. These rates are periodically changed by amendments to *The Act*. An exception is the stamp duty on transfers of real property, which are taxed at an *ad valorem* rate of 5.5 percent of declared value. The stamp duty on the sale of a share is by a sliding scale: J$5 if the value does not exceed J$500, J$10 if the value lies between J$500 and J$1000, and J$10 per J$1000 for every additional J$1000 or fractional part thereof.[6]

The Property Transfer Tax is levied at a rate of 7.5 percent of the market value of the property (land and improvements). In 1975, the rate was 5 percent, and in 1971 it was 2.5 percent. In total, a transfer of real estate draws a combined tax rate of 13 percent. For the property transfer tax, the seller pays the tax. For the stamp duty, the seller and buyer each pay one-half the tax. Sometimes the attorney collects the tax in advance and turns it over to the Stamp Duty Office when formalizing that part of the transfer.

Exemptions and Preferential Treatment

The stamp duty specifically exempts many types of documents and transactions. In fact, *The Act* is full of specific exceptions. There is literally a qualification after each document listed in the duty schedule. For example, *The Act* provides for duty on 14 categories of bonds, but provides for exemption in eight categories. A letter, or power of attorney to recover debts is dutiable, but a letter to a banker authorizing another to sign

[6] *Stamp Duty Act*, sections 2 and 3.

cheques is exempt. Such gradations make the stamp tax extremely complicated, and according to some, extremely arbitrary.

There are formal exemptions with respect to transferring real property under both Acts. These include some standard exemptions as provided by *The Property Transfer Act* (e.g., churches, eminent domain, some agriculture exemptions such as crops, etc.). *The Stamp Duty Act* explicitly exempts three categories of conveyance: land used as a site for any church or chapel; sales made in pursuance of *The Poor Relief Act*; and sales to the Commissioner of Lands pursuant to *The Crown Property Act*.

Also, with respect to real property, there is a separate rate schedule for "Love and Affection" transfers (within families) of 7.5 percent property transfer tax and J$25 for stamp duty. Such transfers are treated as gifts. Eligibility for this preferential treatment, and limitations, is described within *The Act*. Transfer at death is subject to a 15 percent property transfer tax and no stamp duty.

Shares traded on the Jamaica Stock Exchange are not taxable when transferred. All other sales of shares are taxable.

Administration and Compliance

For taxes on property transfers, there is a standard procedure for compliance. It involves visiting the Stamp Office or sending a representative. The following describes the steps to be taken.

1. Go to the office with a sale contract (standard form)
2. Fill out a "stamping requisition".
3. This document is inspected and printed.

4. Each transaction is given a number and is logged in. Numbers are assigned in sequence. (The property identification number is not recorded in the case of real estate transfers.)

5. A data entry clerk then records certain information from the document.

6. The document goes to the valuation unit to determine whether an independent valuation is necessary. (The Stamp Office reports that about 20 percent of transactions are revalued.)

7. If no additional valuation is required, then the tax bill is printed and the taxpayer is given 14 days to make payment.

8. After payment (at the Stamp Duty Office) the buyer may take the document to the Titles Office to complete the transfer.

If additional valuation is required for purposes of levying the property transfer tax, i.e., if the declared value does not appear to reflect the market value, then a separate procedure is followed. The valuers do both desk and field work to revalue the property to better reflect market value. The basic data used in this revaluation are from their own records of all transactions reported in the recent past. There are about 11,000 transactions in the Stamp Office database. These data are grouped by neighborhood and are compared with declared market values in submitted contracts. A declared value that is more than 20 percent out of line with what is perceived as "normal," is revalued. This process seems more based on expert judgment than on a computer selection of outliers.

There are 15 trained valuers in the Stamp Duty Office. Two are stationed in Montego Bay, one in May Pen, and the remainder in Kingston. Depending on other duties they are assigned, this may or may not be a small force of valuers relative to the workload. According to Fiscal Services, there are about 9,000 transfers per year, but according to the Stamp Duty Office, the correct number is closer to 15,000 per year. With a judgmental system, and with few other duties, this may be a manageable workload

for a staff of 15 trained valuers. Fiscal Services data show that about 600 transfers per year are challenged, whereas the Stamp Duty Office estimates that the true number is closer to 1,000.

The Act provides for penalties, and according to stamp duty officers, these penalties are in fact imposed. Once the contract is signed and dated, the parties have 14 days to pay the property transfer tax. If they fail to do so, there is a 100 percent penalty on the amount of tax and stamp duty due. Stamp duty officers report that penalties are assessed with some frequency (see the discussion below).

There are other reasons why a person might be exempt from taxes on the transfer of real property, or pay less than the total amount assessed, or why they might not pay the penalty. Discretionary waivers are given by the Ministry of Finance (in fact, most requests are reported by the MOF to be approved, see below). Sometimes these waivers cover tax and penalty, and sometimes they are partial. A special exemption relates to the Land Administration Reform Project in the parish of St. Catherine. Properties in certain zones in this pilot project area are exempt from transfer tax.

A special issue concerns the tax status of transfers of government properties or transfer of properties owned by government-owned organizations. Previously, transfers involving parastatials were exempt from stamp duty and property transfer tax, but now these are taxable (since December 2003). (These include BOJ and UDC). In general, exemptions from tax involving government properties are well covered in *The Stamp Duty Act*, and *The Property Transfer Tax Act*, and there is little ambiguity.

Problems and Issues

Revenue Performance

The revenue performance of the stamp duty and property transfer tax is described in Table 1.

Table 1: Stamp Duty and Property Transfer Tax: Revenue Trends[a]

Fiscal Year	Revenue (in million J$)	Revenue per capita	Real Revenue per capita[c]	Revenue as percent of GDP[b]	Revenue as percent of Total Tax Revenue	Revenue Elasticity[d]
1988/89	240.80	102.19	80.96	1.15	4.88	
1989/90	338.50	142.53	100.37	1.34	5.46	1.99
1990/91	428.00	179.08	102.82	1.13	5.52	0.53
1991/92	675.20	280.63	107.07	1.13	5.88	1.00
1992/93	1,006.60	415.44	95.00	1.06	5.28	0.84
1993/94	1,466.90	600.94	100.54	1.12	5.07	1.22
1994/95	1,715.90	697.52	87.98	1.00	4.51	0.54
1995/96	2,068.60	834.11	84.15	0.97	4.12	0.86
1996/97	2,374.80	950.07	79.92	0.96	4.30	0.93
1997/98	2,107.60	836.81	63.65	0.79	3.56	-1.33
1998/99	2,336.70	920.94	65.88	0.81	3.49	1.52
1999/00	2,688.70	1,052.16	69.67	0.87	3.54	1.84
2000/01	2,892.60	1,124.21	66.95	0.83	3.32	0.64
2001/02	3,441.00	1,328.57	73.99	0.90	3.80	1.94
2002/03	3,810.60	1,421.85	73.94	0.91	3.70	1.04
2003/04	5,043.09					

Source: Ministry of Finance and Planning; data for 2003/04 provided by the Stamp Duty Office.
a) Excludes stamp duty collected at customs.
b) Revenue as percent of GDP for 1988/1989 and 1989/1990 fiscal years were calculated using GDP data for 1988 and 1989 calendar years. For all other years, FY estimates of GDP are used, as reported at <http://www.mof.gov.jm/dmu/download/2004/pubdebt/pd0401fy.pdf> accessed on May 10, 2004.
c) Deflated by GDP deflator, base year 1986. Source: *World Development Indicators* 2003, World Bank.
d) Not adjusted for discretionary charges.

As may be seen in the table, the revenue growth has been slow, and by 2002/2003 had fallen to about 3.7 percent of total tax revenue. This is down from the historic highs of over 5 percent in the early 1990s. By 2002/2003, the real per capita level of stamp duty and transfer tax revenue had fallen to about J$74 per capita, which is below the level of J$95 in 1992/1993. As a percent of GDP, there has been a long term decline in revenue from this source.

In 2003-2004, there has been a dramatic increase in stamp duty and transfer tax revenues. This is primarily due to some rather large sales of properties, and is thought by Stamp Office officials to be more likely a one-time event than a new pattern of rapid revenue increase.

Additional detail on the composition of revenues is described in Tables 2 and 3. Interestingly, the revenue split between transfer tax and stamp duty is about even over the past few years (Table 2). The data on total revenue reported here and in Table 1 show both collections for current year liabilities as well as collections of penalties. When these data are adjusted to exclude penalties, we see a pattern of an increasing share of collections due to current year liabilities, reaching 85 percent by 2004 (Table 2).

Table 2: Components of Stamp Duty and Property Transfer Tax Revenue

Year	Total (in million J$)	Percent Stamp Duty	Percent Transfer Tax	Total Collections Net of Penalties (in million J$)	Net Collections as a Percent of Total (in million J$)
2001-2002	3,492	41.9	58.1	2062	59.0
2002-2003	3,899	46.8	53.2	2823	72.4
2003-2004	5,043	46.3	53.7	4314	85.5

Source: Computed from data provided by the Stamp Office.

The dis-aggregation of revenues by object presented in Table 3 shows that about three-fourths of revenue from the two taxes combined is attributable to taxes on real estate. The other large component is document stamps. The tax on shares constitutes quite a small amount.

Table 3: Stamp Duty and Property Transfer Tax Revenues: By Object of Taxation, 2003-2004

	Stamp Duty (in million J$)	Transfer Tax (in million J$)	Total (in million J$)	Percent of Total Collections
Real Estate Transfers	1,575	2,153	3,728	74.0
Shares	26	186	212	4.2
Other Stamp Duties	734	-	734	14.6
Estates	-	307	307	6.1
Capital Distribution	-	58	58	1.2
Total	2,335	2,704	5,039	100.1[a]

Source: Computed from data provided by the Stamp Office.
a) Totals may not add up to 100 percent because of rounding.

The conclusion one might draw from this time series is that the real level of revenues from stamp and property transfer tax in Jamaica has declined over the past decade. But even at only about 4 percent of total taxes, it is not an insignificant amount of revenue. That this revenue source is as large as it is will surprise many observers. In 2002-2003, it was equivalent in amount to 22 percent of revenues collected from the domestic portion of the GCT. This amount of revenue is a special concern in a country facing a fiscal deficit and a backlog of expenditure needs. Can Jamaica afford to give up this revenue source? Perhaps the better way to frame the question is to ask whether the revenues generated from the stamp and property transfer tax could be raised in another way, presumably one that has less deleterious effects on the economy (see below). Or, perhaps even more to the point, can it be raised from another source with as little political ease as it is raised with the stamp duty/property transfer tax?

Compliance

One would not expect compliance to be a major issue for documents that might be tested in a court of law. A document achieves legal status once the stamp is affixed, hence there is incentive to register certain documents. Most stamp duties are levied at specific rates, and many are small enough that they are more a nuisance than a significant burden. On the other hand, *The Stamp Duty Act* is very complicated, a great number of documents are subject to duty, and legal standing is not of great importance for many documents. There is little if any audit, and so the extent to which "liable" documents are voluntarily registered and stamped is not easily determined. It may be that no one knows the true rate of compliance.

Compliance is probably a more significant problem in the case for the stamp tax on a real property transfer, which is levied at an *ad valorem* rate of 5.5 percent. The relatively high rate of 13 percent on a real property transfer (stamp duty plus property transfer tax) is a significant disincentive to report the true sales value, hence there is likely to be widespread under-declaration. Moreover, the Stamp Duty Office accepts the declared value of a transaction (the "consideration") as the taxable base of the stamp duty.[7] In a sense, the stamp duty on a property transfer might be likened to a tax on honesty.

The property transfer tax on the sale of property is a somewhat different story. The tax rate of 7.5 percent is clearly a disincentive to declare the full market value of the transfer. But because the legal base of the tax is market value, it is possible for the Stamp Office to carry out an independent valuation and revise the taxable value to reflect the

[7] *The Stamp Duty Act* clearly states that the value of the property involved in the sale should be reported, and makes provision for the seller to provide detailed information upon request.

findings of this valuation. The question is whether this revaluation is done frequently, and whether the increased values are significant. If there are frequent checks on declared values, and if the resulting upward revaluations are significant, then under-declaration of values will be discouraged.

If the Stamp Office regularly makes good on its threat to revalue property if the stated value appears to be too low, then one would expect to find the market value against which transfer tax is levied to be significantly larger than the reported "consideration" against which the stamp duty is levied. Since the parties to the sale report only one value, the difference will be a reflection of the extent to which the Stamp Office rejects the stated "consideration" values. We can apply a very simple test. By identity,

$$R_s = r_s C_s$$

$$R_t = r_t MV_t$$

where R_s, R_t = revenues raised from Stamp Duty and transfer tax on real estate.
r_s, r_t = respective tax rates
C_s = "consideration" for Stamp Duty
MV_t = market value for property transfer tax

Solving these equations for MV_t and C_s for the year 2003-2004, we find (in J$ billions).

C_s = J$28,636
MV_t = J$28,706

The fact that estimated "consideration" is equivalent to about 99 percent of estimated market value suggests that the revaluation done by the Stamp Office does not have a major revenue impact. Either Jamaicans are prone to report full tax liability on a voluntary basis, or the threat of revaluation is not a serious anti-evasion measure.

We can make a more precise estimate of the impact of revaluation of stated values on the base of the property transfer tax. We were provided data (by Fiscal Services) on

all 26,311 properties transferred during the period 2001 through 2003.[8] We have analyzed these transactions in order to study compliance with the property transfer tax. In Table 4, column 1, we report the total number of properties on the land value (property tax) rolls in each year. The total number of transfers passing through the Stamp Office is reported in column 2. Note (from column 3) that the number of parcels transferred is equivalent to less than 2 percent of the total parcels that are taxable.[9] Next we turn attention to the extent to which the stated "consideration" in these 26,311 transfers was "challenged" by the Stamp Office and a revaluation was done. Our estimates, based on these data, are that about 7 percent of these 26,311 transferred properties had their declared market values challenged during this three year period (column 5).

Table 4: Number of Parcels Subject to Property Transfer Tax

Year	Total Number of Parcels	Total Number of Parcels Transferred	Transferred as percent of Total	Total Number of Transfers "Challenged"	"Challenged " as percent of Transferred
2001	684,283	8,165	1.2	604	7.4
2002	697,451	8,401	1.2	650	7.7
2003	697,747	9,745	1.4	669	6.9
Total	2,079,481	26,311	1.3	1,923	7.3

Source: Computed from data supplied by Fiscal Services.

[8] Fiscal Services manages the database but is not responsible for collecting the data or guaranteeing its accuracy.

[9] Subdivided properties would not be included in column 2 of Table 4 since they are not liable to transfer tax.

In Table 5, we report the assessed land value of all parcels (column 1), and the self-reported value of transferred properties (column 2). For example, in 2003, the total value of land on the property tax roll was J$541 billion. The total value of all property transferred (land and improvements) was J$29 billion. The ratio of the value of property transferred to the total assessed value of land was 5.5 percent in 2003. The question arises as to whether this is a small percent due to a paucity of transfers, or due to an undervaluation of these transfers, or whether in fact it is a small percent.

In the fourth column of Table 5, we report the declared value ("consideration") of all property that was challenged by the Stamp Office as possibly being out of line with market value. These results show that less than 3 percent of the declared value ("consideration") of property transferred was challenged, and this percent did not vary widely during this three-year period (column 5). To belabor the point, 97 percent of the value involved in sales of land appears to have been accepted as declared by the sellers.

Table 5: Value of Parcels Subject to Property Transfer Tax

Year	Total Land Value of Parcels	Total Value of Property Transferred	Transferred as percent of Total	Total Value of Property "Challenged"	"Challenged" as percent of Transferred
2001	88,475,135,273	22,311,465,484	25.2	583,139,369	2.6
2002	542,455,930,026	23,631,939,947	4.4	718,760,112	3.0
2003	541,053,638,626	29,634,902,078	5.5	739,469,247	2.5
Total	…	75,578,307,510	…	2,041,368,728	2.7

Source: Computed from data supplied by Fiscal Services.

Finally, in Table 6, we report the outcome of the challenges. The first column reports the percent increase in value as a result of the challenge, and the second column shows the number of parcels involved. For example, 410 parcels challenged during the 2001-2003 period had their values increased by 50 to 99.9 percent. The percent distribution of parcels in each class is shown in the remaining two columns. About one-half of the 1,923 properties had an increase of 100 percent or less upon revaluation.

Table 6: Frequency Distribution of "Challenged" Valuation

Percent Increase in Value	Number of Parcels	Percent of Parcels	Cumulative Percent of Parcels
below zero	4	0.21	0.21
0 to 49.9	545	28.34	28.55
50 to 99.9	410	21.32	49.87
100 to 499.9	711	36.97	86.84
over 500	253	13.16	100
Total	1,923		

Source: Computed from data supplied by Fiscal Services.

The conclusions we might draw from this data analysis are that (a) likelihood of being "audited" because of an under-declared value is not high (about 7 percent according to these data), and (b) the resulting upgrade in value will exceed 100 percent in only about one-half the cases. Even then, there is some probability that a discretionary waiver might be obtained. Under these circumstances, one would expect a low rate of voluntary compliance in declaring true market values.

Another view is that the probability of being audited is much higher than is indicated by the data supplied by Fiscal Services. The Stamp Office indicates that the reported data understate the number of challenges, because (deceased) estate transfers are not included in these data. They estimate that the correct number of challenges is 6,898

for the period (vs. 1,923). This would imply a much higher rate of audit, and therefore a greater inducement for voluntary compliance.

The broader question is the overall rate of compliance. We have no method to make a direct estimate of the extent to which Jamaicans comply with the stamp duty and property transfer tax on real property. We can, however, use an indirect method of estimation, based on the following formulae:

$$TL_i = 0.13V_i$$

$$TL^* = \sum TL_i - E$$

$$TP^* = TP - P$$

where[11]

TL_i	=	calculated tax liability for more than 9,000 transfers, based on data obtained from Fiscal Services.
$\mathbf{V_i}$	=	property values for over 9,000 transfers, based on data obtained from Fiscal Services.
TL^*	=	adjusted total tax liability
E	=	exemptions
TP^*	=	tax collections on behalf on year *t* liability
TP	=	tax collections made in year *t*
P	=	penalties and other collections in year *t*

The ratio of TP^*/TL^* is an estimate of the total compliance rate, i.e., the ratio of the amount collected in year *t* on behalf of current liability, to the amount which is owed. Using data for 2002-2003, we estimate this compliance rate to be 62.1 percent.

Economic Effects

The stamp duty and property transfer tax can introduce a lock-in effect on the formal sale of parcels. A tax rate of 13 percent, if levied on true market value of a transaction, could produce a quite onerous burden. This could encourage the holding of

[11] Variable shown in boldface was collected from Fiscal Services. Other variables supplied by the Stamp Office.

land, finding means of transfer to avoid the tax, or could stimulate an aggressive appeal for discretionary relief. It is likely that all three events have occurred in Jamaica. In fact, some countries have reduced the transfer tax rate in recent years in order to revive a sluggish property market.

A more bothersome issue in many countries, including Jamaica, is the impact of taxing shares and other financial instruments. This could raise a number of problems. First, the cost of transactions will be increased and this could reduce the volume of transactions and slow the flow of resources to those sectors and those uses where they are most productive. Second, a less well-functioning capital market could lead to capital flight.[12]

Jamaica does not tax the trading of shares listed on the Jamaica Stock Exchange, but it does tax the sale of shares by other companies. This creates an uneven playing field among companies, and it also increases the cost of share financing relative to, say, bank loans. Other financial instruments are also taxed under the stamp duty, e.g., mortgages, bills, notes, etc. At the margin, the stamp tax discourages the development of secondary markets in commercial paper.

With all this said, it still should be noted that the taxation of shares constitutes less than 5 percent of revenues raised under the stamp duty and property transfer tax. We are unable to estimate the extent to which this is due to the fact that equity finance is discouraged by the tax regime.

[12] For a discussion of the problems with the taxation of shares, see Hawkins and McCrae (2002). They report that the long run elasticity of turnover of shares with respect to transactions costs is –1.5, i.e., a ten percent increase in transaction costs reduces turnover by about 15 percent.

Equity

There are several ways that we might evaluate the equity or fairness of the stamp duty and property transfer tax. One is the horizontal equity question, i.e., are all taxpayers treated the same under the law and in practice? The second is the vertical equity question, i.e., does the burden of this tax fall disproportionately on low income Jamaicans?

Horizontal Equity: Preferential Treatment. A fundamental question is whether all documents are taxed under the stamp duty, and whether all transfers of property are taxed under the stamp duty and property transfer tax. If not, then there is an underlying equity issue that needs to be justified. The goal is for all Jamaicans to be treated the same under these two taxes, or for there to be an acceptable reason for unequal treatment.

In fact, there are many contracts between individuals and businesses that are outside the coverage of the stamp duty, e.g., rent contracts between landlords and tenants. Moreover, there are many small transactions involving payment by check that are outside the system. It would not be cost effective to broaden the definition of the base to try and capture these. In sum, the stamp duty covers some contracts and transactions among some persons, but not all.

There are violations of the horizontal equity principle, some of which are provided for in the law. Whether these violations are acceptable depends on the rationale for their existence. At the very least, these exceptions to a uniform treatment of all Jamaicans should be re-examined on a regular basis. With every exception, a new door opens to avoid taxation. Some taxpayers will alter their financing choices and others will contrive to reclassify their transaction.

The following would seem to be the two main horizontal inequities in the law:

- The exemption from tax of shares traded on the Jamaica Stock Exchange vs. the taxation of shares sold by privately held companies.

- The preferential tax rates assigned to "love and affection" transfers.

In both cases, there are justifications for these special treatments. In the shares case, the preferential treatment is to encourage an efficiently functioning stock market and to encourage participation in public offerings. Nevertheless, this exception leaves a differential tax treatment of some sales of shares vs. others. The government might ask whether this differential is any longer justified.

In the case of the "love and affection" transfers, the issue is to show preference to property transfers that remain within families. Favoring transfers within families is more a matter of social policy than tax policy and is widely practiced. Still, it opens doors for tax avoidance and raises issues of judgment about what constitutes a family, and increases enforcement requirements.

While these two examples of horizontal inequity stand out, there are numerous other exemptions, particularly for the Stamp Duty. Many involve government transactions and are justified on those grounds. But many do not involve government and each of these exemptions introduces a preferential treatment for someone and therefore a discriminatory treatment against someone else. We cannot measure the use of all exemptions and their value, because these are not reported. However, the Stamp Office does keep track of those exemptions that are granted after assessment of tax (and penalty)

is made, e.g., discretionary waivers. As is shown in Table 7, these are significant, accounting for about 37 percent of current year collections.

Table 7: Exemptions under the Stamp Duty and Property Transfer Tax: 2003-2004

	Current Year Collections (in million J$)	Exemptions[b] (in million J$)	Exemptions as a Percent of Current Year Collections	Exemptions Net of Penalty as a Percent of Total Assessment
Real Estate Transfers	3,527	1363	38.6	21.9
Shares	100	147	a	7.8
Other Stamp Duties	683	71	10.3	1.3
Estates	358	136	38.0	35.1
Capital Distribution	13	44	a	
Total	4,681	1761	37.6	19.1

Source: Computed from data provided by the Stamp Office.
a) Exempt amount exceeds current year collections.
b) Exemptions reported here include some penalties and waivers as well as exemptions.

This estimate may overstate the degree of exemption, because some "exempt" amounts are also double-counted as penalties assessed. To be more accurate, we should report net exemptions (net of penalties) as a percent of the total assessment for the year. This is done in the last column of Table 7, where we show that net exemptions are equivalent to about 19 percent of the total assessment made for stamp duty and transfer tax. The result is the same: exemptions are considerable.

Horizontal Equity: Discretionary Waivers. Perhaps the most serious form of horizontal inequity arises out of the practice of granting discretionary waivers for payment of

property transfer tax and stamp duty on property transfers. These waiver applications apparently are considered on a case-by-case basis and are based on judgments about the merits of each case. Most applicants are successful, but some are not. As well-intentioned as the discretionary waivers might be, they do introduce an element of subjectivity and therefore unfairness into the tax system.

The Ministry of Finance has provided records on applications for waivers from stamp duty and from property transfer taxes. There were 379 files showing applications and final decisions about relief. Most of the files contained complete data. However, we are informed that some applications for waivers passed directly to the Minister's office and are not included in this file, hence there is a question of the completeness of these data. Moreover, in some cases, the amount of the waiver actually granted was not reported. Nevertheless, a significant amount of data are included in the files, and these do give some indication about the magnitude of the discretionary waiver program.

The information for stamp duty waivers is recorded by year in Table 8 for the period 2001 through 2004 (with only partial data available for the latter year). For example, for the year 2003, there were 25 applications for waiver of stamp duty, and 21 of these applications (84 percent) were approved. The approval was in each case for penalty only, and the total relief reported was J$3.34 million. We also have imputed the full amount of relief by assuming the "unreported" waiver amounts to be equal to the average of those reported. Hence the imputed total cost of waivers in 2003 was J$3.9 million. A few trends shown in this table are worth remark.

- About 90 percent of applications were approved during this period.
- The approvals are for penalty only, and in most cases 100 percent waivers are granted.

- The total amount of relief granted seems nominal. If we impute the amounts reported (per parcel), to the total number of approvals, it comes to only J$3.9 million in 2003, and J$ 3.71 million in 2004.

- The quite large amount of relief reported in 2001, due largely to a single application, was equivalent to 12 percent of combined stamp duty and transfer tax collections for that year. This might be viewed as a one-time event and not part of a normal pattern.

Waiver requests for the property transfer tax are shown in Table 9. These data show a much larger number of requests than in the case of stamp duty, even though some requests were sent directly to the Minister and are not reported here. Again, the remarkable feature of this compilation is that most requests are approved. For the period 2002-2004, over 80 percent of the requests were approved in each of these years (but only 65 percent in 2001). A significant increase is reported for 2004, but much of this is attributable to a small number of large waivers. For this period, the reported value of the waivers is J$152.8 million. However, 43 percent of the approved applications did not show the amounts of tax/penalty that were waived.

In the last column of Table 9, we report the results of imputing the average waiver amount reported for that year to the missing values. Note that no amounts were reported for 2001, so no imputation was possible. Therefore, our best estimate is that the waiver amount for 2002-2004 was about J$300 million.

Table 8: Stamp Duty Applications for Waivers, and Results: 2001-2004

Year	Number of applications	Number Approved	Percent Approved	Approval Penalty Only[a]	Reported Amount (in millions J$)	Approved but not Reported (Number of Applicants)	Imputed Waiver Amounts[b] (in million J$)
2001	28	25	89.3	24	356.04	0	356.04
2002	27	26	96.3	25	3.30	2	3.59
2003	25	21	84.0	21	3.34	3	3.90
2004	8	7	87.5	7	1.06	5	3.71
Total	88	79	89.8	77	363.74	10	367.24

Source: Computed from data provided by the Ministry of Finance and Planning, May 2004.
a) One waiver was granted in 2001 for penalty and tax.
b) Estimated by using the average of reported amounts.

Can we give an overall estimate of the tax expenditure associated with discretionary waivers? The data reported for the period 2001 through 2003 for (imputed) amounts for stamp duty and transfer tax is J$449 million. This is equivalent to about 5 percent of the total yield of the stamp duty and transfer tax during those three years. The amounts reported for exemption from stamp duty and property transfer tax, in Table 7, though not exactly comparable, suggest a larger number.

We can use these data to estimate the distribution of waivers granted by property value class. From the files on waiver applications and approvals, we know the amount of waiver granted (either penalty or tax). From this number, we can estimate the amount of tax due and hence the taxable property value. The 78 properties for which we can perform this analysis are grouped by value class in Table 10. The results show that nearly 70 percent of the parcels approved for relief were clustered in the lower value classes (less than J$5 million).[13] On the other hand, about 90 percent of the waiver amounts accrue to the owners of properties with values of over J$10 million. What can we say from this? Based on the characteristics of the number of applications approved, one could not say that discretionary relief is exclusively a rich man's game. The majority of applications evaluated and granted relief are parcels whose value is less than J$10 million. However, the greatest amount of the relief does appear to go to the higher valued properties.

[13] This compares to 86 percent of all transfers in 2003 with a value less than J$5 million.

Table 9: Property Transfer Tax Applications for Waivers, and Results

Year	Number of Requests	Number Approved	Percent Approved	Reported Amount (in millions (J$)	Approved but not Reported (Number of Applicants)	Imputed Waiver Amounts[a] (in million (J$)
2001	20	13	65.0	0	13	0
2002	112	96	85.7	25.5	38	42.2
2003	130	107	82.3	26.9	40	43.0
2004	29	24	82.8	100.3	13	218.9
Total	291	240	82.4	152.8	104	304.2

Source: Computed from data provided by the Ministry of Finance and Planning, May 2004.
a) Estimated by using the average of reported amounts.

Table 10: Estimated Property Value for Waivers Approved: by Value Class

Estimated Property Value	Parcels	Percent of Parcels	Cumulative Percentage
Less than 500,000	11	14.1	14.1
500,000 – 1 million	13	16.7	30.8
1 million – 5 million	29	37.2	67.9
5 million – 10 million	7	9.0	76.9
10 million – 100 million	15	19.2	96.2
Over 100 million	3	3.8	100.0
Total	78	100	

Source: Computed from data provided by the Ministry of Finance and Planning, May 2004.

Reaching a conclusion about the cost of discretionary waivers is difficult. In some years they are nominal, e.g., in the J$45-J$50 million range in 2002-2003. In other years (e.g., 2001 and 2004) they can reach into the hundreds of millions of J$ range.

Vertical Equity. The vertical equity question is a different one. What we would like to know is whether the pattern of payment of property transfer tax and stamp duty is reflective of the ability of the taxpayer to pay? For example, an advocate of progressivity in the tax system would hope for a rising level of taxes paid per dollar of income, as income rises. Unfortunately, data are not available to link the market value of property sales to the income level of the sellers, therefore we cannot directly estimate the progressivity in the distribution of burdens for stamp and property transfer taxes. However, on an *a priori* basis, one would expect that the distribution of burdens from taxes on real property transfers would be progressive, at least because of the concentration of property ownership in the higher income classes. Moreover, those who do not transfer property will not be subject to tax. If lower income property owners buy

and sell less frequently, or are more prone to transfer property within the family, then the progressivity of the tax will be greater.

We can get at the vertical equity question only indirectly, by calculating the concentration of property transfer tax and stamp duty on real property transfers, according to the value of the property taxed. The database used is 9,745 property transfers for 2003, with data supplied by Fiscal Services. First, we group these parcels into nine value classes, as shown in column 1 of Table 11. As may be seen from columns 2 and 3, the average transfer takes place in the J$1 million to J$2.5 million value range. Second, we estimate total property transfer tax and stamp duty tax liability as shown in column 4. For example, in the value range of J$1 million to J$2.5 million, there are 2,860 transfers (29.3 percent of all parcels transferred in 2003), and the estimated tax liability of these transfers is J$609 million (15.7 percent of the total tax liability of all properties transferred). There is a difference between tax liability and tax paid against current year liability, due to exemption, penalties and preferential relief.

What can we conclude from this table? The penultimate column of Table 11 shows that about 40 percent of all taxes on property transfers are paid by owners of properties with values between J$1 million and J$5 million. About one third of total taxes are paid against transfers of property with values above J$10 million. These results might lead one to speculate that the tax falls most heavily on middle and upper income Jamaicans.[14]

[14] This conclusion might be qualified because we have not taken into account any shifting of the tax burden. If the transfer taxes on real estate are capitalized into property value, then property owners bear the burden of the tax. However, if the tax dampens investment in the housing market, reducing the supply of residential housing, housing costs will be driven up and part of the burden of the transfer tax might be borne by consumers of housing. This result will depend in part on the extent to which these funds can flow easily to other investment opportunities that are free of such taxes.

Table 11: Transfer Tax Liability[a] by Property Value Class: 2003

Property Value (in million J$)	Number of Parcels	Percent of Parcels	Total Tax Liability (in million J$)	Percent of Total Tax Liability	Cumulative Percentage
less than 100,000	510	5.2	2.4	0.1	0.1
100,000-500,000	1,200	12.3	42.1	1.1	1.2
500,000 - 1 million	1,580	16.2	145.2	3.8	4.9
1 million - 2.5 million	2,860	29.3	609.8	15.7	20.6
2.5 million - 5 million	2,251	23.1	945.7	24.3	44.9
5 million - 10 million	909	9.3	780.6	20.0	64.9
10 million - 50 million	403	4.1	821.0	21.0	85.9
50 million - 100million	21	0.2	185.4	4.7	90.6
over 100 million	11	0.1	366.7	9.4	100.0
	9,745	100.0	3910.8	100.0	

Source: Computed from data supplied by Fiscal Services.
a) includes both stamp duty and transfer tax.

Another approach, also built on some very simplifying assumptions and quite limited data, lead us to a similar conclusion. We can use some evidence from *The Survey of Living Conditions* distributions of burdens from the stamp duty and property transfer tax. As reported in column 1 of Table 12, we can estimate the distribution of households by the amounts spent on consumption.

Table 12: Characteristic of Households by Consumption Decile

Population Decile	Percent of Consumption	Percent of Households owning more than one dwelling	Percent of total income from rental property	Percent of total dividend income
Poorest 10	1.8	7.0	1.8	
Second 10	3.4	7.9	0.2	
Third 10	4.7	9.4	7.0	1.8
Fourth 10	5.9	7.3	6.4	14.5
Fifth 10	7.2	7.0	1.7	2.4
Sixth 10	8.6	5.6	1.5	
Seventh 10	10.3	12.3	13.2	
Eighth10	12.6	12.6	20.5	
Ninth 10	16.4	9.4	20.1	7.3
Richest 10	29.2	21.4	27.6	73.9
Total	100.0	100.0	100.0	100.0

Source: Jamaica Survey of Living Conditions, 2002

For example, those households in the top decile account for 29.2 percent of all consumption. In columns 2 and 3 we report an estimate of the distribution of rental income received by those who report owning more than one property. In column 4, we report the distribution of dividend income as indicated in *The Survey of Living Conditions.*

These data are drawn from a relatively small sample, and the information on capital income is suspect, and these are important qualifiers. Still, the results are

suggestive of a concentrated ownership of capital in general, and real property in particular, in the upper income brackets. For example, these data would suggest that the top 30 percent of all households account for about 60 percent of consumption but for 70 percent of property income and 80 percent of dividend income. It would not be unreasonable to assume that the burden of the property transfer tax and stamp duty (perhaps 70 to 80 percent) is borne in about the same proportion.

Transfers Taxes and Property Tax

A basic source of data for the valuation of land for purposes of property taxation is the transfer value assessed for the purposes of stamp duty. The Land Valuation Department used data on about 1,100 sales of vacant properties, as reported by the Stamp Office, as baseline information for the general revaluation in 2001. To some extent, the accuracy of the property tax roll is dependent on the extent to which the reported values from the Stamp Duty Office reflect the true market value of property.

At present, the system is not working well for this purpose. The tax rate of 13 percent and the relatively small number of challenges of self-reported values makes it likely that property values will be understated. The Stamp Office accepts the self-reported value for purposes of stamp duty, without challenge, and this amount is passed to the Land Valuation Department. Only the declaration of property values for stamp duty ("consideration") is passed to the Land Valuation Department. That is, even if a self-assessment is challenged and taxable market value is revised, only the original declared value is reported to the Land Valuation Department.

More generally, there is not a good flow of information between the two offices. Land Valuation proposes to charge the Stamp Office for certain reports, and the Stamp

Office is not prepared to issue certain other data to the Land Valuation Department. Property identification numbers are not recorded by the Stamp Duty Office, hence are not reported to the Land Valuation Department. All of these problems stand in the way of what should happen, i.e., a supporting program between the two units. Land Valuation Department data could be used effectively in the audit process to identify under-reported sales values, and a better estimation of market values of sales could improve the accuracy of land value assessment. (See Box 2).

Box 2: Transfer Taxes and Property Taxes in India

In Uttar Pradesh state in India, the current practices for valuing properties at the time of transfer appear to be well designed. This is done by establishing minimum values for land in different areas and then applying cost-based norms for valuation of buildings. In this way, a set of "reasonable estimates" of property values are developed and serve as baseline for evaluating the self-declared values. This database is updated every two years. Data used are both objective evidence from sales and expert judgment by external parties with expertise in property markets.

Source: Das-Gupta, 2002

Complexity

The Stamp Duty is particularly complex. It is a tax on a great number of different types of documents that are individually specified. Presumably, this list is changed as methods of doing business change and new types of agreements are reached. It is not clear that most taxpayers understand the requirement of stamping a document and paying duty, other than the "legal standing" advantage to them for certain documents. The business community is probably more astute on this front, and in fact the Government's Taxpayer Audit and Assessment Department web site, <http://www.jrs.gov.jm/taad/home.html>, does provide good information about the requirements.

The rate structure is even more complex, and it is difficult to sort out the rationale for so many different rates. It does not seem to be based on a notion of cost of the examination of the document. And, if it is based on the inelasticity of demand for that document (a revenue motivation), that is not completely clear.[15] What is more, the rates are changed periodically, and it is not clear what drives such changes. One could conclude that the rate differentiation among documents is quite subjective and overly complex.

Richard Bird's indictment of the stamp duty on grounds of its complexity is particularly striking. "In short, the stamp duty in Jamaica, as in most other countries where remnants of this ancient levy persist, is an archaic, cumbersome collection of specific and *ad valorem* taxes applied to a conglomeration of bases in a confused and confusing way." (1991, p. 590).

This complicated structure of tax opens the door for significant evasion and avoidance of taxation, and for political lobbying for provision of tax preferences for special interest groups. The fact that there are numerous rates and numerous exemptions, and the fact that the base is defined in a very detailed way by the type of document means that special interests can target relatively small pieces of the law. Such lobbying successes might be hidden in the complexity of the law.

The Rationale for Stamp Duties and Property Transfer Taxes

Before considering the options for reforming the stamp duty and property transfer tax, it would be useful to question the purpose of these taxes. In general, the question is whether they have a place in a modern tax system.

[15] For example, a strategy could be to impose a higher duty on those documents where it is thought that registration is essential, and where there is no good substitute for stamping to legalize the document.

Stamp Duties

Stamp duties are one of the oldest forms of taxation. Justice D. G. Hill of the Federal Court of Australia provides an interesting narrative on the origins:

> The first use of stamps is generally accepted to have been in Holland, where stamp duties, in the sense of taxes imposed on stamped paper, were imposed in 1624. The story of the imposition of the tax, which Mr. Dowell narrates, is worth retelling. At the time Holland was engaged in a life and death struggle with Spain at enormous expense and accordingly was left with a depleted treasury. The States General, at their wits end to come up with yet a new source of revenue offered a reward for the invention of a new tax, which was to be at the same time, "beneficial to the revenue and not overburdensome to the citizens." Stamp duty was thus born. *Australian Tax Review* (27), p.14.

To this day, stamp duties remain a part of the tax system in most countries, but they are widely criticized and there are continuous calls for their abolition. In most cases, they are retained primarily to protect revenues.

The fundamental question to be addressed is "why have a stamp duty?" Clearly there is need to legalize documents and assure that they are properly filed, and a government stamp is one way to do this. To levy a service charge that would cover the cost of doing this would seem a reasonable justification. There might even be some justification for differentiating the rate of charge by type of document, given the different degree of examination required for various types of documents.

But the stamp duty in many countries seems to have taken on a greater role. In some countries its existence seems more driven by its revenue purpose, however minor that may be. In less developed economies, revenue mobilization is almost always constrained by weak tax administration. This has led to the search for "tax handles", i.e., easy ways to collect taxes. Early on, it was recognized that stamp duties were indeed an

easy way to collect taxes because the taxpayer was required to come to the government office to register the document. Little by way of assessment was necessary and collection could be made on site. Stamp duty rate structures have become more complicated and in some cases now reflect revenue opportunity rather than cost of examination. Many countries have extended the stamp duty to cover financial and in some cases real property transactions. The use of stamp duty as a revenue instrument is not limited to developing economies.

A number of issues are raised with respect to stamp duties. Four criticisms seem most common. First, stamp duties are a nuisance, particularly in many developing countries where on-site compliance is required. If the waiting time is long, this increases the transaction costs of doing business, and imposes a time cost on individuals. This nuisance cost might be reduced if the tax were to be payable at banks or post offices (where government examination of the document is not necessary). Or it could be collected by vendors, as for example in the cases of mortgages and life insurance policies.

Second, stamp duties interfere with the development of efficient capital markets by taxing the transfer of various instruments of finance. There are numerous complaints here. The stamp duty (and the property transfer tax in Jamaica) increases the cost of completing a financial transaction -- issuing stocks -- and lowers the return to capital. It also introduces a lock-in effect and reduces the volume of transactions. This slows the flow of resources to areas where the productivity of its use is greatest. Depending on the structure of the stamp duty, it may discriminate against one form of financing instrument (stocks) in favor of another (bank loans). Finally, as some have noted, it may drive investment away from formal stock exchanges in countries that levy a higher rate of

stamp duty (transaction tax).[16] Note that all do not agree with this position. Summers and Summers (1989) concluded that a case could be made for a U.S. securities transaction tax on grounds that it would curb instability due to speculation, reduce the flow of resources to the financial sector, and lengthen the horizon of company managers.

A third criticism is that stamp duties bring significant administrative problems. Most contracts are made among individuals and businesses without the knowledge of government, and in some sense the payment of stamp duty is voluntary. Enforcement is difficult because the Stamp Office tends to be understaffed. Finally, because the tax schedule is so complicated, special interests sometimes find it easy to include a special exemption or preferential rate.

Fourth, stamp duties amount to double-taxation in countries where company income taxes and value added taxes are already in place. Value added taxes were introduced in most countries to replace a plethora of indirect taxes, of which some stamp duties are a part. Why retain the stamp duty? In addition, some stamp duties would appear to be more in the vein of taxing capital, in which case the corporate income tax or the property tax would seem to be the instrument of choice. Note that in many countries, the stamp duty is deductible from corporate income tax liability. Finally, the stamp duty on real estate transfers might be thought of as part of the family of property taxation. Since property taxes and the benefits of the services they finance are likely capitalized (to some extent) into property values, there is no need for a separate property transfer tax.

Various reform measures have been suggested. Outright abolition of stamp duties on transactions involving financial instruments is an often-seen proposal. Recent proposals in the UK to remove the stamp tax on shares are in this vein (London Stock

[16] For a good discussion of the problems with taxing security transactions, see Campbell and Froot (1993).

Exchange, 2001; IFS, 2002). There have been continued calls for elimination of the stamp duty in Israel (*Institute for Advanced Strategic and Political Studies*, 2002). In neither case has the stamp duty been abolished, in part because of the need to protect revenue.

Some countries have reduced tax rates on transfers of financial instruments to lower levels. For example, the Swiss Government reduced the tax on publicly traded shares by about 25 percent in 2000 to address the problem of a growing shift in volumes to the London Stock Exchange. (*Tax Notes International*, April 24, 2000). A congressional panel in the Philippines in 2003 approved stamp duty reforms that would "reduce the private sector reliance on bank loans." They proposed to do this by eliminating the stamp duty on secondary trading of stocks for a five year period, eliminating the stamp duty on secondary trading of debt instruments, reducing the stamp on new business formations, and increasing the stamp on primary issues of debt. (*Tax Notes International*, December 1, 2003, p. 790).

These proposals sometimes call for a recapture from an increased VAT or company income tax. Note also that some revenue recapture will be automatic in that stamp duty may be deductible from other taxes. Moreover, if an increased level of economic activity results, automatic revenue stimulation could occur.

Property Transfer Tax

Property transfer taxes also are levied in most countries. As in the case of stamp duties, the primary goal is revenue mobilization. The target of such taxes is usually real estate transfers. It is an easy tax handle in that most buyers/sellers desire to legally record the transfer and therefore will voluntarily comply. Some would see it as an

equitable tax in that it is generally borne by property owners who tend to be in the middle and upper income classes.

There are a number of reasons why property transfer taxes often are included in the revenue base. First, as noted above, is the revenue motivation and what might appear to be a very low cost of collection. Second, if property ownership is concentrated in the higher income classes, the distribution of tax burdens may be progressive. Third, the number of people in the taxpaying population in any given year is much smaller than in the case of more general taxes, hence the opposition to the tax may not be as great as would be the case if, say, an increase in the value added tax were proposed. Fourth, a property transfer tax might reach that part of the population that ordinarily avoids payment of most income taxes and value added taxes.

Some would argue that property transfer taxes are a proxy for capital gains taxes on property investments. This is not a good justification because the sales price of a property probably bears little relationship to the size of a capital gain. The capital gain would depend on how long the property had been held, and the real appreciation in value during that period, whereas the property transfer tax would depend solely on the gross selling price irrespective of any other factors, and indeed, of whether any gain had been made. (See Box 3).

Box 3: A Capital Gains Tax or a VAT on Property Transfers?

One idea with some currency is to introduce a capital gains tax on property (real estate). This would serve the purposes of generating revenues and closing off an avenue of avoidance of income taxes.

There are two ways that this might be done. One is to institute a separate capital gains tax on real property in place of the current transaction taxes on real estate. Capital gains taxes on property are not unknown in developing economics. They are levied, for example, in Columbia, Korea, Zimbabwe and Taiwan. However, the implementation of a capital gains tax on property raises some serious administrative issues.

As the international practice shows, there are a number of important issues:

- How would records of the original selling price be documented and verified?
- How would records of the increase in basis be kept and verified? For example, records would be required to show the cost of improving properties to enhance the selling price.
- Would there be an inflation adjustment?
- How would inter-family transactions be handled?

One might conclude that the tax administration in Jamaica is not yet ready to support an effective capital gains tax on real property.

The other choice is to eliminate the stamp duty and property transfer tax on property sales, and bring residential real estate transfers under the value added tax. Buyers and sellers would have an incentive to report correctly, and a more accurate flow of information about land values would result. The tax would be levied at 15 percent on the selling price of land, less the (real or notional) tax paid on the purchase price. For many sales, the tax burden would be well below that of the current 13 percent rate on total transaction value.

This would violate the notion of a VAT as a consumption tax since housing is consumed over many years. The practice varies widely among the industrialized countries. Some cover certain types of property sales under the VAT (e.g., new vs. used buildings as in Germany and Belgium), some use a transfer tax much as Jamaica does and zero rate new buildings (UK), and there are numerous types of special treatments and exemptions (Tait, 1998).

There are major disadvantages to the property transfer tax. First, it raises the cost of property transactions thereby reducing the volume of transactions, hence slowing the

development of the real estate market. Second, administrative costs could be high, at least because of the need to check the self-reported property values and revalue when necessary. Third, a property transfer tax gives property owners an incentive to understate taxable value, hence weakening the database that is called on for assessment of the property tax.

A moment's reflection will lead to the conclusion that the problems with the property transfer tax are dependent on the level of the tax rate chosen. At very low rates, these problems may be of less consequence. But when the tax rate is high (e.g., 13 percent in Jamaica), the implications of these problems are magnified.

In fact, countries choose very different rates of taxation on the value of property transfers. An illustrative list of rates for various countries is shown in Table 13. These data show that the tax rates in Jamaica are high in comparison to this sample of countries, though they are exceeded in a few places. South Africa, for example, taxes property transfers and also subjects these sales to a 14 percent VAT. But in most cases, the rates are below those levied in Jamaica. The reform options most often seen for property transfer taxes in recent years are reductions in the rate to mitigate the problems described above. For example, Czech Republic in 2003, Portugal in 2003, Slovakia in 2002, Taiwan in 2003, and Dominican Republic in 2003.

Table 13: Property Transfer Taxes on Real Estate: Selected Countries

Country	Tax Rate
Jamaica	13 percent [a]
Portugal	Graduated rate ranging from 2 percent to 6.5 percent. Rate varies by value and land use.
Germany	3.5 percent
Slovakia	1 percent to 6 percent, depending on value
Czech Republic	3 percent
Netherlands	6 percent
Pakistan	5 percent
Bhutan	5 percent
Taiwan	7.5 percent
Mauritius	Between 5 percent and 10 percent
Swaziland	Between 3 percent and 4 percent, depending on value
Costa Rica	1.5 percent
El Salvador	Up to 3 percent depending on value
Kenya	4 percent

Sources:
Portugal, *Tax Notes International*, April 21, 2003, p. 227
Germany, *Tax Notes International*, January 14, 2002, p. 102.
Slovakia, *Tax Notes International*, March 8, 2004, p. 915.
Czech Republic, *Tax Notes International*, January 5, 2004, p. 26.
Netherlands, *Tax Notes International*, June 16, 2003, p. 1093.
Bhutan, *Taxes and Investment in Asia and the Pacific,* Supplement No. 104, 1993, International Bureau of Fiscal Documentation.
Taiwan, *Taxes and Investment in Asia and the Pacific,* Supplement No. 165, 1998, International Bureau of Fiscal Documentation.
Mauritius, *African Tax Systems,* Supplement No. 117, 2000, International Bureau of Fiscal Documentation.
Swaziland, *African Tax Systems,* Supplement No. 105, 1997, International Bureau of Fiscal Documentation.
Costa Rica, *Latin American Taxation Database*, Supplement No. 122, 2000, International Bureau of Fiscal Documentation.
El Salvador, *Latin American Taxation Database*, Supplement No. 113, 1998, International Bureau of Fiscal Documentation.
Kenya, "Land Value Taxation: A Case Study Approach," McCluskey and Franzsen, 2001

a) includes Stamp Duty.
b) Stamp Duty only.

Options for Reform in Jamaica

In Jamaica, as in most countries, stamp duties and property transfer taxes have been retained in the tax system primarily to protect revenue. This is the most persuasive argument for leaving the present system in place. However, as noted above, these taxes cause economic distortions and impose unwanted compliance costs. The business community considers these taxes a considerable nuisance, and their existence erodes overall confidence in government taxation. If they were properly administered, they could lead to significant administrative costs. Most of the problems with these taxes relate to the tax on transfers of real property where the combined rate is 13 percent.

There are numerous reform options, ranging from abolishing both taxes, to reducing the tax rate and eliminating some of the more objectionable features, to leaving things as they presently are. In the discussion below, we evaluate these reform choices. Note that this analysis is focused on the property transfer tax and stamp duty exclusively, but a full evaluation of any reform option would properly focus on the implications of replacing parts of these two taxes with another revenue source.

Option #1: Do Not Change Anything

There is not a great outcry for reforming the stamp duty and property transfer tax. They are a significant irritant, particularly to the business community, but there does not appear to be a grassroots movement to eliminate these taxes, or even to put them through a major reform. The revenues generated are not dominant in the Jamaican system, but at about 4 percent of total taxes, they are significant. To replace these or to cut expenditures by an equal amount would be painful. Most countries manage to live with both stamp duties and property transfer taxes, despite their shortcomings.

There are some advantages to keeping things as they are. One important advantage is that these taxes are paid by a relatively small number of Jamaicans (though much of the tax burden is likely shifted to the population at large), hence their elimination is not likely to be perceived as giving broad-based benefits. It may be a difficult political sell, especially if it comes at the cost of increasing the GCT rate. Moreover, there is some sense that these taxes capture some Jamaicans with significant taxable capacity but who have been able to successfully avoid the income tax. The stamp duty rates, other than on real estate, are low and therefore the distortive effects may not be great. The property transfer portion of the tax is not particularly well-administered, but this is in part because the Government has not invested very heavily in upgrading the administration. Consequently, administrative costs are relatively low. Finally, these taxes are known to the Jamaican population, and are in some sense accepted. The impacts of these taxes have long ago been capitalized and are part of the decision making process. Whether these are "good taxes" or not, their continued imposition will not cause any "tax shock" to the population.

There is a down side to not reforming the stamp duty and property transfer tax. Most importantly, these taxes are objectionable enough that they might lead to an eroding of confidence in government as a tax collector. This erosion in confidence may spill over to compliance with other taxes. Reform of stamp duty and property transfer tax would be a signal that the GOJ is serious about modernizing its tax structure and making it more objective. Beyond this, some may see reform of the transfer tax and stamp duty as a sign of how serious the GOJ is about strengthening the efficiency of operation of the Jamaican economy. One issue is the number of activities that are not undertaken because of the

tax, e.g., the development of a secondary mortgage market, or a secondary market for commercial paper. The overall amount of equity financing and the volume of transactions in the property market are probably dampened by the presence of these taxes. Enforcement and exemption policy seem more arbitrary than is desirable, and in some cases compliance costs may be high. There is a good case for a major reform of these taxes.

Option # 2: Retain the Stamp Duty and Property Transfer Tax but Reform their Most Objectionable Features

If it is decided that no comprehensive reform of these taxes is warranted, or is possible, then some adjustments to address the most objectionable features might be considered. These might include the following six changes:

First, eliminate the stamp duty on property transfers, and replace it with an equivalent, unified rate (13 percent) on the property transfer tax. This would hold the tax revenue constant, but it would shift the tax base to market value (vs. "consideration" in the case of present stamp duty). This could lead to a voluntary statement of sales price that more closely approximates market value. If this resulted in a truer statement of market value, then revenues could increase or tax rates could be rolled back. Under such a system, where "consideration" would no longer be a basis for taxation of property transfers, the valuation unit could be empowered to increase the base for taxation for the entire 13 percent tax.

This change will have no revenue implications in the short run, since the transfer tax rate will remain at 13 percent. However, if the switch to a market value base and the

greater threat of revaluation were to result in a voluntary assessment that is closer to market value, then revenue yield could be greater over time.

Second, institute a deduction for property transactions of J$1 million. At present, properties with a value of J$1 million or less account for about 34 percent of parcels that are taxed, but account for only about 5 percent of total tax liability. This threshold seems too low. A J$1 million deduction would reduce administrative costs because approximately one-third of all transactions would no longer require challenge. Moreover, they would not pay the transfer tax, though they would register the sale. Moreover, the vertical equity of the tax system would likely be enhanced because owners of properties valued at less than J$1 million would no longer be taxed.[17]

Third, eliminate the stamp duty and property transfer tax on all transactions in shares, and on certain other financial transactions (e.g., mortgages, promissory notes, bills of exchange, etc.). There is no good reason to discourage efficient financial transfers in Jamaica. The revenue cost will be minimal.

Fourth, eliminate the practice of giving discretionary waivers. These waivers compromise the fairness of the tax system, impose a significant revenue cost, and erode confidence in the tax by introducing non-transparency. Our high estimate is that this reform could save up to 5 percent of revenues or about J$215 million in 2003-2004. We estimate that only a small fraction of the waivers would have accrued to those with taxable values below J$1 million.

Fifth, mandate coordination between the Land Valuation Department and the Stamp Duty Office for sharing of data on property values, and for exchange of valuation

[17] The lowest value classes do not show a full elimination of tax liability, because their liability under the present system is greater than the amount we estimate that they actually pay against current year liability.

expertise. Upgrade the capacity of the Stamp Office to carry out meaningful revaluations of properties where transaction values appear to be understated. Impose a penalty for understatement of market values.

Sixth, use an audit selection approach to increase the effectiveness of challenges to declared market values. By "audit selection approach" we mean developing a database that will allow an automatic flagging of property values that fall outside a "reasonable range" of values. This database could include land values for each parcel, neighborhood amenity indicators, sales history, and current use. To accomplish this, the Stamp Office and the Land Valuation Department would need to assign a unique number to each transaction, probably including the parcel identification number.

In Table 14, we report simulations of the impact of this reform for all property value classes.[18] In column 4, we show the total tax liability (for property transfers) under the present system, which adds up to J$3,910 million.[19] In column 6, we show an estimate of the reduction in taxes that would actually be paid against current year liability, if this reform were to be enacted. The largest amount of revenue reduction occurs in the J$1 million to J$5 million range, but the greatest reduction in overall burden goes to those who own property valued at less than J$1 million.

[18] The simulations presented in Table 14 require a number of simplifying assumptions. These are described in Appendix A.
[19] This amount includes some payment of penalties, some waiver of amount due, and some delinquency.

Table 14: Real Estate Transfer Tax Liability by Value Class[a]: 2003

Property Value	Number of Parcels	Percent of Parcels	Total Tax Liability (in million J$)	Percent of Total Tax Liability	Change in Total Tax Liability (in million J$)		
					Option 2	Option 4	Option 5
less than 100,000	510	5.2	2.4	0.1	-1.5	-1.5	-1.2
100,000 - 500,000	1,200	12.3	43.5	1.1	-27.0	-27.0	-20.7
500,000 - 1 mil.	1,580	16.2	147.3	3.8	-91.4	-91.4	-70.3
1 mil. - 2.5 mil.	2,860	29.3	613.5	15.7	-230.3	-380.7	-292.9
2.5 mil. - 5 mil.	2,251	23.1	948.6	24.3	-180.4	-588.7	-452.8
5 mil. - 10 mil.	909	9.3	781.8	20.0	-72.1	-485.2	-373.2
10 mil. - 50 mil.	403	4.1	821.5	21.0	-31.1	-509.8	-392.2
50 mil. - 100 mil.	21	0.2	185.4	4.7	-1.3	-115.1	-88.5
over 100 mil.	11	0.1	366.7	9.4	-0.2	-227.6	-175.1
Total	9,745	100.0	3,910.8	100.0	-635.2	-2,427.0	-1,866.9

Source: Computed from data provided by Fiscal Services, May 2004

a) Includes both Stamp Duty and Property Transfer Tax

The big issue is revenue. A J$1 million threshold would be a revenue loser because all properties would receive the J$1 million deduction. (Note, however, that this feature would also reduce the cost of administering the tax.). Our best estimate is that the revenue cost of this feature would have been J$635 million in 2002/2003, or about 26 percent of current year payments (Table 14). If the data provided by Fiscal Services are not complete, as argued by the Stamp Office, this estimate of revenue loss is understated. The challenge would be to recover this lost revenue of about J$1 billion. The broadest base tax, the GCT, is one candidate. To achieve revenue neutrality, the GCT rate would be increased from 15 percent to 15.3 percent.

Option # 3: Abolish All Stamp Duties and Abolish the Property Transfer Tax

A reform option that many would find appealing is the total elimination of the stamp duty and the property transfer tax. The Stamp Duty Office would still serve its function of providing a legal basis for documents, and would levy a nominal charge that would be set to cover the cost of Stamp Office operations. A separate decision would need to be taken about estate duties. The goal would no longer be revenue generation. The rate schedule could be greatly simplified. In effect, all taxes on real estate transfers, shares, capital distributions and "other duties" would be eliminated. The revenue cost at 2002-2003 levels would be about J$2.8 million.

There is much to recommend this option. In general, it is a step toward modernization of the tax system. Some believe that the adoption of a modern GCT to replace a number of indirect taxes in the Jamaican system, and the presence of individual and corporate income taxes, should also have swept out the stamp duty (Bird, 1991). The charging of duty for instruments such as domestic airline tickets, or life insurance, or

business financial transactions, amounts to a double taxation that is not necessary. There is another option. Property transfer taxes might be abolished in favor of an increased rate of local property tax.[20]

Abolition of these taxes would eliminate distortions in the system that result in a differential taxation of certain activities. The differential treatment of listed and private companies would be eliminated, and the tax on some financial instruments (e.g., mortgages) would be eliminated. Disincentives to adopting modern business practices, e.g., developing a secondary mortgage market, creating a secondary market for commercial paper, etc., would no longer be in place.

Administrative and compliance costs could be reduced. The need for a valuation unit within the Stamp Duty Office would disappear, and these officers could be assigned to other important tasks. Taxpayers would no longer be burdened by the process of filing property transfer tax returns in person, and the Minister of Finance would no longer be burdened by the review of applications for waiver.

Of course there are arguments to retain the stamp duty and property transfer tax. The most persuasive is the protection of revenue. Total abolition of the two taxes would have cost J$2.8 billion in 2002/03, and an estimated J$4.3 billion in 2003/04, amounts equivalent to roughly 3 percent of total tax revenues.[21] To replace this revenue loss in 2002/03 would require an increase in the GCT general rate from 15 percent to 16.5

[20] This might be problematic because the property tax is earmarked for local government budgets whereas the property transfer tax is a central government revenue source. Such a proposal might (or might not) need to be accommodated by some change in the revenue sharing system.

[21] The loss in tax liability would be greater, closer to 4 percent of total tax revenues, but we do not factor this into the revenue cost.

percent, or an increase in the average property tax rate from 0.16 percent to 0.68 percent of land value.[22]

Another argument for retaining the two taxes is that the taxes on property transfers in particular, fall on upper-middle and higher income Jamaicans, some of whom may avoid payment of income taxes and may be subject to only nominal property taxes. A tax on property transfers is at least one way to keep them in the net. To shift even 3 or 4 percent of total taxes to the traditional income, GCT or property tax will be to continue piling the burden on those who already comply. This argument is somewhat speculative because there is no evidence that those who pay property transfer taxes do not pay income tax, GCT or property tax.

Option # 4: Abolish All Taxes on Property Transfers

This fourth option would be to abolish the property transfer tax and all stamp duties on conveyances, but otherwise leave the stamp duty rate schedule intact. The main changes here would be the elimination of any taxes or duty on the sale of real property, shares, or certain financial instruments. Most of the stamp duty schedule would remain in place and some revenue would be generated.

The advantages of this reform option are the same as in Option #3. It would eliminate the economic distortions associated with taxing sales of property, eliminate the compliance and administrative costs of these taxes, and reduce the unfairness that comes with granting favored treatment to certain types of property transactions and discretionary waivers to others.

[22] These amounts do not take into account the fact that these taxes are deductible from corporate income tax liabilities.

In Table 14, we report the impacts of this option on tax payment in each property value class. By comparison with Option #2, the reductions are much greater, particularly for the higher value classes. Note that the tax reductions for owners of properties valued between J$5 million and J$50 million is more than twice the amount realized under Option #2.

The disadvantage would be primarily the revenue loss. We estimate that the loss would have been J$2.4 billion in 2002-03, almost as great as in the case of Option #3. To make this up would require an increase in the GCT rate from 15 percent to 16.3 percent, or in the average property tax rate from 0.16 percent of land value to 0.61 percent.

If this option were adopted, all who pay the property transfer tax would see a reduced tax liability. We show this in Table 14 where we compare current year tax liability under the present system (column 4) with the reduction in current year tax liability under Option #3, after adjustment for exemptions. These estimates are based on a simulation for 2003. All 9,745 who were involved in selling property would be winners in this scheme, with one-third of these being owners of properties valued at less than J$1 million (27 percent). Herein lies another weakness of abolishing this tax: if the revenues were made up with an increased GCT rate, the reduced tax burden for 9,745 property owners would be spread across nearly the entire Jamaican population. This likely would make a marginal contribution to the regressivity of the tax system.

Option # 5: Reduce the Tax Rate on Property Transfers

One other option is to follow the practice in some countries that have retained the tax on property transfers, but have significantly lowered the tax rate. One possibility is to

lower the property transfer tax rate to 3 percent (from 7.5 percent), and to eliminate the 5.5 percent stamp duty on property transfers.

This would have some advantage over the proposals above. It would be marginally less costly. This change would have imposed a revenue cost of J$1.8 billion in 2002-2003. The revenue cost could be made up with an increase in the general GCT rate from 15 percent to 16 percent, or with an increase in the average property tax rate from 0.16 percent to 0.5 percent. It also would keep some of the owners of the highest valued properties in the transfer tax base. If instead, the rate were lowered only to 5 percent, the revenue loss would be about J$1.5 billion and the required increase in GCT would be from 15 percent to 15.8 percent. The effective property tax rate would need to rise to 0.4 percent of land value.

This option would have some disadvantages. It would leave the transfer taxes in place and the administrative apparatus for re-valuation etc., could not be eliminated. Its mandate would be to collect a smaller amount of taxes so in some sense it would be even less cost effective.

Option #6: Introduce A Capital Gains Tax On Property Transfers.

Another option is to abolish the tax on transfers and replace it with a capital gains tax on realized increases in land and/or on property values. This option would have several desirable features. It would fill in a loophole in the Jamaican tax system, namely the tax free status of capital gains, it would likely be progressive in its distribution of burdens, it would reach the lightly taxed property ownership segment of the Jamaican economy, and it would be a revenue generator. Note that such a tax would in effect become part of a schedular income tax system in Jamaica.

This tax also might seem fair from a benefits-received standpoint. Property owners receive land value increments in part because of government investments in infrastructure such as roads, utilities, etc. It seems only fair that government (taxpayers in general) should share in these increments.

How might such a tax work? In its simplest form, the capital gains tax would be levied only on land. The calculation of liability would be as follows:

1. Land value at time of sale
2. minus land value at purchase, net of costs of improvements, adjusted for inflation over the period.
3. minus allowable exemption status
4. equals taxable realized capital gain
5. times tax rate
6. equals tax due

The land value at time of sales (Row 1) could be established by Government, based perhaps on the land value schedule used for property tax, updated to the time of sale. The problem of separating the value of the land from the value of the improvements would remain, but the task of estimating a capital gains tax on land would seem within the reach of the Land Valuation Department. The practice of estimating an official Government declared price for land is used in levying the capital gains tax on land in Taiwan (Tsui, 1998).

The land value at time of purchase (Row 2) could also be estimated by the Land Valuation Department, based on historical records of assessed land value. The costs of (allowable) improvements would be based on provable evidence. An indexing for inflation could be based on an objective index determined by government.

If the base of the tax were extended to include realized capital gains on property transfers, improvements included, the administrative difficulties would be multiplied.

The formula would be the same as above, except now there would be two additional complications: (a) Each improvement would need to be valued at the time of sale, and (b) the issue of determining the historical cost basis for the transfer of structures would be very problematic.

A number of issues might arise in designing such a tax. First, as noted above, is the administrative costs. If the tax is limited to land, these would seem manageable, though some upgrading in the capability in the land valuation office would be required. If the tax is to include realized capital gains on improvements, a much greater administrative cost is implied and a new valuation unit would likely have to be created. One would need to carefully consider whether the increased revenues from taxing gains on improvements would be worth this cost. On the other hand, one would have to consider the loophole created and the revenue base sacrificed if improvements were not taxed. A middle ground would be to impose a high exemption level on improvements so that the administrative task could be reduced.

A second issue is the exemption question. Among the candidates for exemption from a realized capital gains tax on transfers would be inheritances, low valued properties, land used for farming, government land, and the usual charity list. Particularly problematic will be "love and affection" transfers and transfers among affiliated companies.

Third is the question of whether the "lock-in" effects of a tax on realized capital gains would significantly dampen real estate sales.

Finally, there is the question of whether Jamaica should introduce a realized capital gains tax on real property without introducing a similar tax on gains from other

assets. Not to do so would introduce a significant horizontal inequity in the tax system, and a bias toward investment choice. To do so would suggest a higher rate of taxation on investment in Jamaica and perhaps a negative influence on the competitive position of the country.

The question of revenue is of special importance. In fact, we do not have the data to make a good estimate of the revenue potential of a realized capital gains tax on land and improvements. However, some rough guesses are possible for a tax on realized gains on land.

1. Between the last two revaluations (1993 and 2002), land values increased by J$436.8 billion, or by 6 times the 1992 level. About one half of this was due to inflation (Sjoquist, 2004). Therefore, the real increment in land value (realized and unrealized) was about J$218.4 billion or 41.8 percent.

2. The average percent of properties transferred in 2002 and 2003 was about 1.3 percent, as reported by the Stamp office. We assume this is the share of capital gains that are realized.

3. Based on these assumptions, we estimate (roughly) that the realized capital gains were 1.3 percent of J$218.4 billion, or about J$2.8 billion. This amount would be net of any costs of improving the land.

4. We make the following additional assumptions to estimate the annual revenues for a capital gains tax. We assume that total (realized and unrealized) real capital gains are J$24.2 billion per year, spread evenly across the nine year period. We also assume that no property is transferred more than once during the nine year period. We further assume that the tax rate on realized capital gains is 50 percent.

In Table 15, we report the simulated annual revenues for the entire nine year period. Consider year 1 in this experiment. In column 1, we assume that 1.3 percent of value is realized each year. In column 2, we show the J$24 billion in realized and unrealized capital gains in each year. In column 4, we report the tax base (realized

capital gains) of J$312 million in year 1. At a tax rate of 50 percent, this yields about J$156 million. For year two, the experiment is the same, with two exceptions: First, we assume that 1.3 percent of the remaining 98.7 percent of properties will sell. Second, we assume that these properties sell with a two year capital gain of J$48.6 billion.

The total amount of revenues estimated in this experiment is shown in the right hand column of Table 15. They total J$1.3 billion for the entire period, an average of about J$145 million per year. Revenues from the existing transfer and stamp tax on property transfers were J$3.728 billion in 2003-2004. Even though these estimates are made with very simplifying assumptions and less than complete data, the results suggest that a capital gains tax on land alone is not likely to recoup the lost revenue from abolishing the transfer taxes on land.

These of course are very rough estimates and embody some simplifying assumptions that lead to an understatement of revenue potential. First, they do not take into account the possible taxation of improvements. Second, we assume that the percent of properties transferred each year is equivalent to the percent of capital gains realized each year. Third, we assume that properties turn over only once in every nine years on average. Even with these simplifying assumptions, however, these results suggest that full recovery of the lost transfer tax revenue is unlikely.

Table 15: Estimated Revenue from a 50 Percent Tax on Realized Capital Gains on Land

Year	Percent of Gains Realized	Capital Gains (in billions)	Remaining Property	Tax Base (in billions)	Revenue tax at 50% rate (in billions)
1	1.3	24.3	100	0.316	0.158
2	1.3	24.3	98.7	0.312	0.156
3	1.3	24.3	97.4	0.308	0.154
4	1.3	24.3	96.1	0.304	0.152
5	1.3	24.3	94.8	0.299	0.150
6	1.3	24.3	93.5	0.295	0.148
7	1.3	24.3	92.2	0.291	0.146
8	1.3	24.3	90.9	0.287	0.144
9	1.3	24.3	89.6	0.283	0.142
		218.7			1.348

References

Bahl, R. W. (2002).“Fiscal Decentralization, Revenue Assignment and the Case for the Property Tax,” in *Property Taxes in South Africa: Challenges in the Post-Apartheid Era*, Michael E. Bell and John H. Bowman (eds). Cambridge, MA: Lincoln Institute of Land Policy.

Bird, R. M. (1991). “The Taxation of Services” in *The Jamaica Tax Reform,* Roy Bahl (ed), Cambridge, MA: Lincoln Institute of Land Policy, pp. 587-600.

Bird, R. M. & Slack, E. (eds). (forthcoming). *Land and Property Taxation Around the World*. Edward Elgar Publishing.

Campbell, J. Y. & Froot, K. A. (1993). “International Experiences with Securities Transaction Taxes.” Cambridge MA: NBER Working Paper No. 4587.

Das-Gupta, A. (2002, November). “India: Uttar Pradesh Policy Notes – UP’s Own Revenue System: Assessment and Reform Suggestions,” World Bank.

Hawkins, M. & McCrae, J. (June 2002).“Stamp Duty on Share Transactions: Is there a Case For Change.” London: Institute for Fiscal Studies.

Hill, D. G., (1998, March). “Stamp Duty: A Brief Historical Overview.” *Australian Tax Review,* v 27,pp. 14- 19.

International Bureau of Fiscal Documentation. (1993). *Taxes and Investment in Asia and the Pacific,* Supplement No. 104.

International Bureau of Fiscal Documentation. (1998). *Taxes and Investment in Asia and the Pacific.* Supplement No. 165.

International Bureau of Fiscal Documentation. *African Tax Systems.* Supplement No. 117, 2000.

International Bureau of Fiscal Documentation. (1997). *African Tax Systems.* Supplement No. 105.

International Bureau of Fiscal Documentation. (2000).*Latin American Taxation Database*. Supplement No. 122.

International Bureau of Fiscal Documentation. (1998). *Latin American Taxation Database*. Supplement No. 113.

McCluskey, W. J. & Franzsen, R.C.D. (2001). “Land Value Taxation: A Case Study Approach,” Working Paper, Cambridge, MA: Lincoln Institute of Land Policy.

Menirav, E., (2000, January). "Stamp Tax in Israel," *Institute for Advanced Strategic and Political Studies.* Israel.

Mayer, C. (2001, July)"Stamp Duty, Its Real Effects," in *Energizing the Economy: The benefits to the UK economy of ending stamp duty on share transactions*," London Stock Exchange.

Summers, L. H. & Summers, V. P. (1989, December). "When Financial Markets Work too Well: A Cautious Case for a Securities Transactions Tax," *Journal of Financial Services Research,* vol. 3, December 1989, pp. 261-286.

Sjoquist, D. (2004). "The Land Value Tax in Jamaica: An Analysis and Options for Reform." Working Paper #1, Jamaica Tax Structure Review. Andrew Young School of Policy Studies, Georgia State University.

Tait, A. A. (1998). *Value Added Tax: International Practice and Problems*, Washington, DC: International Monetary Fund.

Tsui, S. W. (1999)."Land Value Increment Tax for Redistribution and Efficiency in Taiwan, ROC;" in Proceedings from the International Seminar on Land Policy and Economic Development, November 16-17, 1998, Taipei, Taiwan, Republic of China.

Tax Notes International (Various issues)

World Development Indicators, (2003). World Bank.

Appendix A
Procedures for Simulation of Different Taxing Options

The stamp duty and property transfer tax rates on real estate are 5.5 percent and 7.5 percent respectively. The total tax rate is 13 percent. We are given revised sale prices (RSP) for 9,745 parcels in year 2003. Tax liability should be calculated as 13 percent of the RSP of each parcel. The total tax liability sums to J$3.9 billion for 9,745 parcels in 2003.

In 2003, actual tax collections were J$2.4 billion, which is about 62 percent of liabilities. In other words, the compliance rate is 62 percent. If we take into account the compliance rate of 62 percent, the tax rate of 13 percent is reduced effectively to 8 percent.

The actual tax payment, thus, would be calculated as follows:
Liability=0.8*RSP

Option #2:

Suppose a deduction of J$1 million is given for each parcel with a value of J$1 million or greater and exclude the ones with value less than J$1.

If RSP≥J$1 million, then Liability 2=0.8*RSP,
If RSP<J$1 million, then Liability 2=0;

The revenue loss from adopting the option 2 would be
Loss 2= $\sum$ (Liability2 - Liability)

Option #4:

If we were to abolish all the property transfer taxes then the loss of revenue would be
Loss 4=- $\sum$ Liability

Option #5:

Suppose we reduce the property transfer tax rates to 3 percent and abolish stamp duties.
Tax liability would be calculated as follows: Liability 5=0.62*0.03*RSP
Loss of revenue from adopting the option 5 is Loss 5= $\sum$ (Liability5 - Liability)