

2015 Budget

Overview of Tax Changes



2015 BUDGET OVERVIEW OF TAX CHANGES

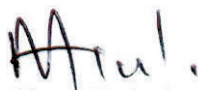
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INTRODUCTION

I am pleased to present an overview of the major changes in the tax legislation and other relevant information to our taxpayers and stakeholders as announced by the Minister of Finance in his Annual National Budget Address for the fiscal year 1st January, 2015 to 31st December, 2015 presented to the National Assembly on 10th October, 2014.

The overview gives a guide on the measures announced in the Budget as reflected in the various Bills, Statutory Instruments and Commissioner General's Rules that contain the enabling legislation. The details are contained in the published legislation. However, it is worth noting that some measures in this pamphlet are subject to Parliamentary approval.

May I recommend visiting the ZRA website (www.zra.org.zm) which includes all the information contained in this pamphlet and other useful tax details. You may also contact our Call Centre on +260 211 381111 or 260 971 281111 or 5972,



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Commissioner General

1.0 DIRECT TAXES

1.1 Compensating Measures

1.1.1 Redesign the tax regime for mining operations by replacing the current two tier system with the following mining tax structure:

- (a) 8 percent Mineral Royalty for underground mining operations as a final tax;
- (b) 20 percent Mineral Royalty for open cast mining operations as a final tax.
- (c) 30 percent Corporate Income Tax rate on income earned from tolling; and
- (d) 30 percent Corporate Income Tax rate on income earned from processing of purchased mineral ores, concentrates and any other semi-processed minerals, currently taxed as income from mining operations.

The measure is intended to increase Government income from the mining sector. It is also aimed at increasing transparency in the sector and achieve a more equitable distribution of the mineral wealth between the Government and the mining companies.

The changes to the mining tax regime will however not apply to mining of industrial minerals.

1.1.2 Increase the Presumptive Tax payable by public service vehicles as follows:

<i>Type of vehicle (seating capacity)</i>	<i>Current Amount of tax per vehicle (per annum)</i>	<i>Proposed Amount of tax per vehicle (per annum)</i>
64 seater and above	K7,200	K14,400
50-63 seater	K6,000	K12,000
36-49 seater	K4,800	K7,200
22-35 seater	K3,600	K9,600
18-21 seater	K2,400	K4,800
12-17 seater	K1,200	K2,400
Below 12 seater	K 600	K 1,200

The measure is intended to increase Presumptive Tax on public service vehicles to take into account the loss in real value of taxes due to inflation. The Presumptive Tax rates have not been changed since the introduction of the tax in 2004.

1.2 House Keeping Measures

1.2.1 Amend the relevant tax legislation so as to provide for:

- a) a different due date (i.e. 5th of the month) for the filing of manual returns relating to PAYE and Turnover Tax;
- b) mandatory electronic filing of Turnover Tax returns for businesses whose turnover exceeds K200,000 per annum; and
- c) mandatory electronic filing for Annual Income Tax returns, PAYE returns and VAT returns.

The measures are intended to increase the uptake of electronically filed returns. This will reduce both the cost of administration and compliance as well as enhance efficiency. The due date for manual submission of returns will be brought forward to the 5th day of the month from the 14th day following the period the returns relate to. The late submission of returns will attract penalties.

1.2.2 Amend Section 2 of the Income Tax Act by changing the definition of “minerals” to align it with the definition provided in the Mines and Minerals Development Act No 7 of 2008.

The amendment is intended to harmonise the understanding of what constitutes minerals with the provisions of the Mines and Minerals Development Act. Currently the definition in the Income Tax Act excludes most minerals that are won through quarrying.

The current definition in the Income Tax Act reads as follows:

"mineral" includes any valuable crystalline or earthy substance forming part of or found within the earth's surface and produced or deposited there by natural agents, but does not include any clay (other than fire-clay), gravel, sand, stone (other than limestone), or other like substance ordinarily won by the method of surface working known as quarrying;

The current definition in the Mines and Minerals Development Act – Cap No.7 of 2008 reads as follows:

"mineral" means any material substance, whether in solid, liquid, or gaseous form, that occurs naturally in or beneath the surface of the earth, but does not include water, petroleum or any substance or thing prescribed by the Minister by regulation.

1.2.3 Provide for the taxation of income earned by a business resident in Zambia and arising from the carriage of persons, mail, livestock or any other goods shipped or loaded outside Zambia to other destinations outside Zambia to prevent double non-taxation.

Zambia implements the source rule regime for taxation of income. This means that only income with a source in or deemed to have a source in Zambia can be taxed.

Currently, where a business, carried on partly within and partly outside Zambia, receives a share of the profit for business carried out partly outside Zambia, such profits are deemed to have been received from a source within Zambia and therefore taxable in the Republic. However, income earned by a Zambian resident business

operating completely outside Zambia is currently not taxable. The measure is intended to widen the tax base by preventing double non-taxation of income from international carriage where Zambia (the resident state) does not tax such income and the other state, which is supposed to tax the income, may not have provisions or the right to tax the said income.

1.2.4 Amend section 81AA of the Income Tax Act to align the definition of “permanent establishment” with current international definitions.

This measure is meant to align the definition of “permanent establishment” with current definitions used in international models and the updated Zambian model of Tax Treaties. This will ensure that full taxing rights are provided in our domestic legislation where we have variances with what is contained in the Tax Treaties signed with other countries.

1.2.5 Amend the sub-heading in Paragraph 6A of the Second Schedule to align it with the substantive provisions of paragraph 6A of the Second Schedule to the Income Tax Act.

The measure is intended to amend the sub-heading under Paragraph 6A to cover other entities that are exempt from Income Tax but are still subject to Withholding Tax on interest arising from treasury bills, Government bonds, corporate bonds or any financial instrument or securities.

Currently, the subheading under Paragraph 6A refers to Withholding Tax on interest earned by Public Benefit Organisations only. However, the substantive provision under the heading covers the application of Withholding Tax on interest received by all other exempt entities such as Trusts, Statutory Bodies, Trade Unions, Approved Pension Funds, Local Authorities, etc.

1.2.6 Provide for the accounting of Withholding Tax deduction on profits repatriated by a branch of a foreign company.

This measure is intended to provide for the accounting of Withholding Tax on branch profits repatriated by a foreign company.

1.2.7 Amend the definition of “turnover” in the Turnover Tax Regulations to exclude interest, rental income, royalties and dividends as provided under the Income Tax Act.

The measure is intended to clarify that passive income is excluded from the Turnover Tax regime. This will align the definition with the provisions in the Act.

1.2.8 Remove the requirement for businesses to submit financial statements and other information together with electronically filed annual Income Tax returns.

This measure is intended to remove the requirement for businesses to submit financial statements together with annual Income Tax returns, following the introduction of electronic filing.

Currently, all businesses are required to submit financial statements together with annual Income Tax returns. However, with the introduction of electronic filing of annual income tax returns, the requirement to submit financial statements will no longer be mandatory. Financial statements and other supporting documentation will, however, only be submitted when required by the Commissioner General.

1.2.9 Limit exemption from Property Transfer Tax on the transfer of property where there is group re-organisation to a group of companies that has a holding company incorporated in Zambia.

This measure is intended to ensure that relief is restricted to only a group of companies whose holding companies are resident in Zambia. The measure will also encourage holding companies to incorporate in Zambia. Currently, Property Transfer Tax is exempt where the transfer of property is effected by way of group restructuring and the recipient of the property is a company resident in Zambia. However, the exemption is valid regardless of where the holding company is incorporated.

1.2.10 Restrict the deduction of bad and doubtful debts incurred by banks and other financial institutions in determining taxable income only to the extent not covered by security or collateral pledged.

The measure is intended to disallow bad debts secured by collateral when determining taxable income. Currently, deduction of bad and doubtful debt is allowed in determining taxable income whether secured or not.

1.2.11 Align the Income Tax Act (Charging Schedule) that provides for Income Tax incentives provided through ZDA to the ZDA (Multi-Facility Economic Zone and Industrial Park) (Priority Sectors) (Declaration) Order of 2014 (Statutory Instrument No. 17 of 2014)

Government has been streamlining the tax incentive structure to limit it to the priority sectors and align it to its priorities of taking development to the rural areas. In doing so, the Income Tax incentives have been restricted to manufacturing activities in rural areas, in Multi-Facility Economic Zones and Industrial Parks. To improve administration of the Income Tax incentives, there is need to align the Income Tax Act to the amendments made during the year under the Statutory Instrument No.17 of 2014 on priority sectors.

The alignment will clarify that the tax holiday on Corporate Income Tax and deduction for Withholding Tax on dividends is only applicable to manufacturing enterprises that are either located in a rural area or operating in a Multi-Facility Economic Zone or Industrial Park.

1.2.12 Align the Tax exemptions on income of entities or persons in the Income Tax Act to the provisions of the Millennium Challenge Compact Act No. 6 of 2013.

The measure is intended to amend the Income Tax Act to cover all eligible entities or persons such as contractors, consultants and other vendors that may qualify for tax exemption on income from the Millennium Challenge Account (MCA) as provided in the Millennium Challenge Compact Act No. 6 of 2013. Currently, only MCA-Zambia and the implementing agents are covered under the Income Tax Act.

2.0 VALUE ADDED TAX MEASURES

2.1 House Keeping Measures

2.1.1 Amend the law on Intending Trader Scheme to:

- a) **restrict deductions of input tax; and**
- b) **provide for the Commissioner General to make Administrative Rules on the deduction of input tax incurred by intending traders.**

The VAT Law provides for an intending trader scheme where a business can claim input VAT prior to commencement of business or trading activities. Currently, Regulation 13 of the VAT General Regulations that provides for the Scheme does not restrict input tax deductible by intending traders to corresponding business lines after the expiry of the period where one has not commenced trading.

This measure will restrict input tax deductible by intending traders to corresponding business lines after the expiry of the period where one has not commenced trading.

2.1.2 **Amend Section 17 of the VAT Act to clarify the effective date of charging penalty on delayed payment of tax due on a VAT Return.**

The measure is intended to ensure that the penalty for late payment is linked to the due date of the return. Currently, the Act provides for penalties on delayed submission and delayed payment of tax on the return. However, the start date of the penalty on late payment is linked to the date of submission of the return instead of to the due date of the payment.

2.1.3 **Enhance the anti-avoidance provisions in Section 50 of the VAT Act.**

This measure is intended to enhance the anti-avoidance provisions where a scheme to obtain undue benefit is detected if either of the conditions provided in section 50 of the VAT Act are met. Currently, the provisions for anti-avoidance can only be invoked if both conditions, on which undue tax benefit is obtained, are fulfilled.

The current law reads as follows:

Notwithstanding any other provision of this Act, where the Commissioner-General is satisfied that any scheme that has the effect of conferring a tax benefit on any person was entered into or carried out:

- a) solely or mainly for the purpose of obtaining that benefit; and*
- b) by means or in a manner that would not normally be employed for bona fide business purposes, or by means of the creation of rights or obligations that would not normally be created between persons dealing at arm's length.*

2.1.4 Allow suppliers whose turnover falls below the registration threshold for VAT within an accounting year to de-register after the end of such an accounting year.

This measure is meant to enable taxpayers to complete an accounting year with minimal disruption to business as it relates to VAT registration.

2.1.5 Provide clarity on the nature of agricultural products that are exempt under Group 16 of the First Schedule of the VAT Act by changing the punctuation in the provision.

The current provision reads as follows:

- (a) Agricultural products – Fresh edible vegetables, fruits, nuts, maize, soya beans, millet, cassava, grounds, sorghum, including flours produced from them, other cereals, except when any of the above products is-*
 - (i) canned, frozen or freeze dried;*
 - (ii) supplied by a restaurant, cafeteria, canteen or like establishment; or*
 - (iii) wheat, cotton seed, seed cotton, lint, baby corn, sweet corn, mange-tout peas (snow peas) sugar snaps, fresh or chilled beans (not dried), carrots, courgettes, patty pans, gem squash, butternut, peppers, leeks, chilies, asparagus, okra, spring onion, peas, tenderstem broccoli, purple sprouting*

broccoli, mini-savoy cabbage, mixed and sliced vegetables, paprika; or

(iv) Gooseberries, passion fruit, and melons;

The measure is intended to bring clarity by tidying up the wording in the Law. Currently, the VAT Exemption Order on agricultural products is not very clear on the exempt products due to the punctuation in the text.

2.1.6 Provide clarification on what items qualify for zero rating under projects funded by Donor funds or co-financed with the Government.

The measure is intended to clarify that only goods and services that are deductible under the VAT Act qualify for zero-rating under the relevant agreement and the good/services qualifying are those for the project/programme and not for the contractors so as to avoid possible abuse.

Currently, the Law does not provide restrictions on items that qualify for zero-rating under technical aid programmes or projects that are funded by donors or co-financed with the Government.

2.1.7 Amend Group 16 (e) (iv) of the first schedule of the VAT Act by substituting “stock feeds” with “animal feed”

This measure is intended to harmonise the provisions on animal feed with the Animal Health Act of 2010. The word “stock feed” is not defined under the VAT Act but the word “animal feed” is defined under the Animal Health Act of 2010.

3.0 CUSTOMS AND EXCISE MEASURES

3.1 Concessions

3.1.1 Remove Customs Duty of 5 percent on aviation fuel

The measure is intended to remove Customs Duty on aviation fuel to reduce costs in the aviation sub-sector.

3.2 Compensating Measures

3.2.1 Increase Excise Duty on un-denatured spirits of alcoholic content of 80 percent or higher, by volume, from zero percent to 125 percent

The measure is intended to restore the collection of Import Excise Duty on imported un-denatured spirits of alcoholic content of 80 percent or higher, by volume, when imported by unlicensed importers.

3.2.2 Suspend Excise Duty on un-denatured spirits of alcoholic content of 80 percent or higher, by volume, to zero (0) percent, when imported by a licenced excise manufacturer.

This measure is intended to support the growth of the local manufacturers of potable spirits.

3.2.3 Increase Customs Duty on explosives to 25 percent from 15 percent.

This measure is aimed at stimulating local production of explosives for use in mining, quarrying and road construction activities.

3.2.4 Increase Customs Duty on roofing sheets to 30 percent from 25 percent

This measure is intended to discourage imports and stimulate local production of roofing sheets while at the same time creating employment opportunities.

3.2.5 Increase the specific Customs Duty on refined edible oil to K2.20 per kilogram from K0.85 per kilogram

The measure is intended to bring the current specific rate at par with the ad valorem rate of 25 percent charged on imported refined edible oils so that there is no incentive for undervaluation at importation. Currently, edible oils attract Customs Duty at 25 percent or a specific rate of K0.85 per kilogram whichever is higher. The specific rate has not been revised since its introduction in 2009 and has since been eroded by inflation.

3.3 House Keeping Measures

3.3.1 Introduce a penalty of 5000 penalty units (K1, 000) for submission of multiple declarations for the same transaction by Declarants and provide for de-registration after the third offence.

This measure is intended to introduce a penalty fee of 5000 penalty units to curb the malpractice by some Declarants of creating duplicate entries on the ASYCUDA system with the aim of deliberately ignoring any query raised by Customs and clearing the declaration on their preferred registration. The duplicated entries results in the bloating of the debt status on ASYCUDA and creates opportunities for tax evasion.

3.3.2 Amend the Customs and Excise Act to distinguish among the various value addition services offered by mobile phone service providers

This measure is intended to separate tariff codes for various services offered by mobile phone service providers such as voice, data and SMS . Currently there is only one tariff code that covers all the various services offered by mobile phone service providers. By classifying these services into respective tariff codes and rightly applicable statistical quantities, services will be appropriately valued for excise duty purposes.

3.3.3 Increase the ASYCUDA processing fee to 415 fee units (K83.00) from 278 fee units (K55.60)

This measure is intended to bring the ASYCUDA processing fee to

cost reflective level as it has not been revised since 2007. The ASYCUDA processing fee is meant for the maintenance, replacement and expansion of automated Customs services including the provision of internet connectivity for enhanced real-time communication.

4.0 CROSS-CUTTING MEASURES

4.1 House Keeping Measures

4.1.1 Provide for the indemnification of the Zambia Revenue Authority against any form of order obtained to seize its property.

The measure is intended to indemnify the Authority against exposure to the risk of having property seized by bailiffs as such action often results in serious disruption of operations and is detrimental to revenue collection.







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