

GOVERNMENT OF ZAMBIA

ACT

No. 28 of 1988

Date of Assent: 27th December, 1988

An Act to amend the Income Tax Act

[30th December, 1988

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) (No. 2) Act, 1988 and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

Short title and commencement.
Cap. 688

(2) This Act shall come into operation on 1st April, 1989, and shall have effect in relation to assessments for the charge year which ends on 31st March, 1990, and in relation to each subsequent charge year thereafter.

2. Section 81A of the principal Act is repealed and the following new section is substituted therefor:

Repeal and replacement of section 81A

81A. (1) Every person or partnership on making a payment to or on behalf of a contractor or a supplier other than a payment to a contractor or a supplier who produces a valid certificate of exemption, in respect of construction, haulage operations, supply or provision of goods, merchandise and services, irrespective of whether the payment is made outside the Republic, shall, where the Commissioner directs, before making any other deductions whatsoever, deduct tax from the payment at the rate specified in Annexure "J" of Part III of the Charging Schedule and that person or partnership shall account for the tax as if it were a payment subject to Part VI (which relates to Pay As You Earn).

Deduction of tax from payment to certain contractors and suppliers

(2) Every person or partnership directed by the Commissioner under subsection (1) shall, on making a payment to any contractor or supplier, record on the form prescribed by the Commissioner, the amount of the payment, the amount of tax deducted from it and any other particulars required by the Commissioner.

(3) Within fourteen days from the end of each charge year, or such longer period as the Commissioner may, generally or in any particular case allow, every person or partnership directed by the Commissioner under subsection (1), shall forward to the Commissioner the form referred to in subsection (2), together with a declaration and a certificate in the form prescribed by the Commissioner.

(4) At the end of each charge year, every person or partnership directed by the Commissioner under subsection (1), shall furnish each contractor or supplier to or on behalf of whom a payment referred to in subsection (1) has been made with a certificate stating in relation to that charge year the total amount of the payments made to or on behalf of the contractor or supplier, the amount of tax deducted from them, the date of issue of the certificate and any other particulars required by the Commissioner:

Provided that where a contractor or supplier requests a certificate in respect of a particular payment, the payer shall furnish the contractor or supplier with that certificate and shall send a copy of it to the Commissioner.

(5) The certificate issued under subsection (4) shall be treated as if it were an assessment for the purposes of Part XI only and the date of service shall be deemed to be ten days after the date of issue shown on it.

(6) Where the contractor or supplier, by notice in writing, applies for a certificate of exemption for the purposes of this section, the Commissioner shall determine whether or not that contractor or supplier has fulfilled all obligations placed upon him by this Act and any other Act for which the Commissioner is responsible and, if the contractor or supplier has fulfilled those obligations, shall issue a certificate of exemption which shall specify the period and conditions of validity:

Provided that the Commissioner may, in his discretion issue a certificate of exemption where he is satisfied that there is good or sufficient reason to do so.

(7) The Commissioner may by notice in writing, cancel a certificate of exemption issued under subsection (6) and the cancellation shall have effect from the date of service of the notice on the contractor or supplier.

(8) A contractor or supplier shall, within thirty days after the date of service of the notice of cancellation of a certificate, return the certificate to the Commissioner and notify in writing every person or partnership to whom the certificate has been produced of the date of the cancellation:

(9) For the purposes of this section—

(a) subject to the provisions of paragraphs (b) and (c) of this subsection, a contractor is any person who or partnership which, engages in construction or haulage operations other than under a contract of employment;

(b) “construction operations” include—

(i) the erection, alteration, maintenance, repair, extension, demolition or cleaning of any building or structure, whether permanent or not;

(ii) the installation in any building or structure, of heating, lighting, lift, airconditioning ventilation, power, drainage, sanitation, water, fire protection or like supplies or services;

(iii) the painting or decorating of the internal or external surfaces of any building or structure;

(iv) the erection, alteration, maintenance, repair, extension, demolition or cleaning of any works forming or to form part of land; and

(v) any operations which are an integral part of or prior to or to render complete the operations described in paragraphs (i) to (iv) of this subsection;

(c) “haulage operations” include the transport by land, water or air of persons, livestock or any goods whatsoever including farm produce or produce of a like nature, ores and minerals, foodstuffs and merchandise;

(d) “goods, merchandise and services” include apparel, stores, stationery, foodstuffs and farm produce, timber and wood products, electrical goods, all hardware, building materials, articles of commerce and commodities; management, consultancy, professional and catering services: and

(e) “supplier” means any person who or any partnership which supplies goods, merchandise or services or any of them, for reward.

(10) The provisions of this section shall not apply to a supplier of goods, merchandise or services who is not ordinarily resident in the Republic.

3. The principal Act is amended by the insertion immediately after section *eighty-one A* of the following new section:

Insertion
of new
section

Tax clearance
certificate

81B. (1) Every person, partnership, institution, authority, organisation or association responsible for the issue of any of the documents referred to in subsection (6) shall not issue that document to any applicant unless he produces a valid tax clearance certificate.

(2) The Foreign Exchange Management Committee, or its successor, shall not allocate or sell any foreign exchange to any applicant unless he produces a valid tax clearance certificate.

(3) Where any authority or person is empowered by any written law or otherwise to register the transfer of any property, that authority or person shall not register the transfer unless there is produced a tax clearance certificate issued in respect of the person or partnership transferring the property.

(4) The Commissioner may by notice in writing cancel a tax clearance certificate and the cancellation shall have effect from the date of service of the notice on the holder of the tax clearance certificate.

(5) The holder of a tax clearance certificate shall, within thirty days after the date of service of the notice of cancellation of the certificate, return the certificate to the Commissioner.

(6) For the purposes of this Act the documents referred to in subsection (1) include retail and wholesale trade, liquor, bar, restaurant, canteen, manufacturing (including assembly activities), export, taxi, bus or minibus operator licences and permits; professional practitioner certificates and permits and documents of a similar nature.

(7) In this section—

“property” means—

(a) any land in the Republic;

(b) any share issued by a company incorporated in the Republic; and

“tax clearance certificate” means a certificate issued by the Commissioner, valid for such period as may be specified in it, stating that the person or partnership to whom or to which it is issued has fulfilled all obligations imposed upon him or it by this Act and by any other Act for which the Commissioner is responsible, or has made arrangements satisfactory to the Commissioner for doing so.

Amendment
of the Second
Schedule

4. The Second Schedule to the principal Act is amended in paragraph 7—

(a) by the deletion of sub-paragraph (7) and the substitution thereof of the following sub-paragraph:

- (g) by way of pension received by an individual from an approved fund; and
(b) by the deletion of sub-paragraph (t).

5. The Charging Schedule to the principal Act is amended—

Amendment
of the Charging
Schedule

- (a) by the deletion of paragraph 2 and the substitution therefor of the following new paragraph:

2. (1) A primary allowance shall be deductible for each individual claimant who is living at any time during the charge year.

(2) For the purposes of this paragraph, a husband and wife shall be deemed to be separate claimants;

- (b) by the deletion of paragraphs 4 and 5;

- (c) by the deletion of paragraph 8A and the substitution therefor of the following new paragraph:

8A. A handicapped person's allowance shall be deductible where the individual or the spouse of the individual who at any time during the charge year lives with that individual, is a handicapped person;

- (d) by the deletion, in sub-paragraphs (c), (d) and (e) in sub-paragraph (1) of paragraph 10, of the words "Part III" and the substitution therefor of the words "Part II"; and

- (e) by the insertion in Annexure "A" of the following new Table;

TABLE 13: With effect from 1st April, 1989

Primary allowance under paragraph 2	K6,000
Insurance allowance under paragraph 6	The amount of premium up to a maximum of K800
Handicapped person's allowance under paragraph 8A	K600;

- (f) by the insertion in Annexure "C" of the following new Table:

TABLE 10: With effect from 1st April, 1989

	Rate per centum
On income from manufacturing	40
On other income	45
On income of all banks registered under the Banking Act	

- | | |
|---|-------|
| (i) On income up to K10,000,000 | 45 |
| (ii) On income in excess of
K10,000,000 | 52.5; |
| (g) by the insertion in Annexure
"I" of the following new Table: | |

TABLE 3: With effect from 1st April, 1989

Rate per centum
25; and

- (h) by the insertion of new Annexure "J" and the following new Table:

ANNEXURE "J"

RATES FOR CONTRACTORS' AND SUPPLIERS' WITHHOLDING TAX
UNDER SECTION 81A

TABLE 1: With effect from 1st April, 1989

Rate per centum
25
