

GOVERNMENT OF ZAMBIA

ACT

No. 14 of 1994

Date of Assent: 11th May, 1994

An Act to amend the Income Tax Act

[3rd June, 1994

ENACTED by the Parliament of Zambia

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 1994, and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

Short title  
and  
commence-  
ment  
Cap. 668

(2) Subject to subsection (3) this Act shall come into operation on the 1st of April, 1994, and shall have effect in relation to assessments for the charge year which ends on the 31st of March, 1995, and in relation to each subsequent charge year.

(3) The provision of this Act referred to in section *thirteen* and paragraph (a) of section *sixteen* shall be deemed to have effect in relation to the charge year which ended on 31st March, 1993 and to each subsequent charge year.

2. Section *two* of the principal Act is amended in subsection (1)---

Amendment

(a) by the deletion in the definition of " Charging Schedule " of the word " allowances " and the substitution therefor of the word " credits ";

(b) by the deletion of the definition of " non-traditional product " and the substitution therefor of the following definition:

"non-traditional products " means anything, other than minerals and electricity, produced or manufactured in the Republic;

3. Section *eight* of the principal Act is amended in subsection (2) by the deletion of the words " two hundred kwacha " and the substitution therefor of the words " two hundred thousand kwacha ".

Amendment  
of section 8

4. Section *twenty-one* of the principal Act is amended in subsection (5) by the deletion of " K400,000 " and the substitution therefor of " K1 million ".

Amendment  
of section 21

5. Section *thirty-A* of the principal Act is amended by the repeal of subsections (4) and (7).

Amendment  
of section  
39A

Amendment  
of section 376. Section *thirty-seven* of the principal Act is amended—

- (a) in sub-paragraph (ii) of paragraph (c), paragraph (d) and paragraph (e) of, subsection (1) by the deletion of " thirty-six thousand kwacha " wherever it appears and the substitution therefor of " forty-eight thousand kwacha ";
- (b) in paragraph (b) of subsection (3) by the deletion of " thirty-six thousand kwacha " and the substitution therefor of " forty-eight thousand kwacha "; and
- (c) in subsection (4) by the deletion of " thirty-six thousand kwacha " and the substitution therefor of " forty-eight thousand kwacha ".

Amendment  
of section 557. Section *fifty-five* of the principal Act is amended by the insertion of the following new subsection:

(3) A person carrying out any mining operations may elect to keep books of account in United States Dollars of all transactions relating to, connected with, or incidental to, such operations if the Commissioner is satisfied that not less than 75 per cent of that person's gross income from mining operations is earned in the form of foreign exchange from outside the Republic:

Provided that such election shall not be reversed without the consent of the Commissioner.

Amendment  
of section 648. Section *sixty-four* of the principal Act is amended by the insertion immediately after subsection (c) of the following new proviso:

Provided that—

- (i) where the Commissioner does not have sufficient information on which to estimate an assessment, the Commissioner may assess a base tax of ten thousand kwacha in any charge year; and
- (ii) a credit shall be allowed for the amount of any base tax which has been paid in a charge year when establishing the amount of tax which is due and payable resulting from any subsequent assessment which the Commissioner may determine for the same charge year.

Amendment  
of section 78A9. The principal Act is amended by the insertion immediately after section *seventy-eight* of the following new section:Interest on  
overdue  
payments

78A. (1) Subject to subsection (3), any payment of tax which is overdue under section *seventy-eight* shall attract interest at the rate prescribed in subsection (2) and shall continue to attract such interest until such time as the payment of the tax has been remitted.

(2) The rate of interest prescribed for the purpose of subsection (1) shall be the discount rate published from time to time by the Bank of Zambia plus two per centum per annum.

(3) The Commissioner may remit the whole or part of any interest due under this section.

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

Insertion of  
section 81C

**81C.** (1) Every person or partnership on making a payment to or on behalf of any person, other than a payment to a person who produces a valid certificate of exemption, for the use of any patent, design, trademark, process or other payment of a similar nature, irrespective of whether the payment is made outside the Republic, shall, where the Commissioner directs, before making any other deductions whatsoever, deduct tax from such 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 for use of  
patent,  
design,  
trademark,  
etc.

(2) The provisions of subsection (2) to (8), inclusive, of section *eighty-one A* shall apply, with the necessary changes, to any deductions made under this section.

11. Section *eighty-two A* of the principal Act is amended in subsection (1) by the deletion of the last proviso ending with the words "one-hundred and eighty days or less" and the substitution therefor of the following proviso:

Amendment  
of section  
82A

Provided that:

- (i) this section shall not apply to interest payable on a bill of exchange drawn for one hundred and eighty days or less; and
- (ii) the payment of any amount in excess of the original issue price for any Treasury Bill or any other similar financial instrument sold at a discount from face value shall be deemed for the purpose of this section to be a payment of interest when any such Treasury Bill or any other similar financial instrument is presented to the Bank of Zambia for redemption or re-discount.

12. Section *ninety-eight* of the principal Act is amended by the deletion of the words "thirty thousand kwacha" and the substitution therefor of the words "five hundred thousand kwacha".

Amendment  
of section 98

13. The Second Schedule to the principal Act is amended in paragraph (9) by the insertion immediately after sub-paragraph (4) of the following new sub-paragraph:

Amendment  
of Second  
Schedule

(5) The first sixty thousand kwacha of discount income earned in a charge year on all sums invested in Treasury Bills or any other similar financial instruments sold at a discount from face value, shall be exempted.

Amendment  
of Fourth  
Schedule

14. The Fourth Schedule to the principal Act is amended in sub-paragraph (2) (c) (vii) of paragraph 2 by the deletion of the words " five hundred kwacha " and the substitution therefor of " K1 million ".

Amendment  
of Fifth  
Schedule

15. The Fifth Schedule to the principal Act is amended in Part VI—

(a) in paragraph 22 (2) (a) (i) by the deletion of the words: " increased at a rate of ten per centum per annum compounded for the period commencing with the first day of the charge year in which such pre-production expenditure is incurred and ending with the last day of the charge year prior to the production charge year ";

(b) by the insertion immediately after sub-paragraph (6) of paragraph 22 of the following new sub-paragraph:

(7) The deduction for any interest on borrowings to be allowed in any charge year shall not exceed the interest on any borrowings in excess of a loan-to-equity ratio of 2:1.; and

(c) by the deletion of paragraph 23 and the substitution therefor of the following paragraph:

Deduction  
for mining  
expenditure  
on non-  
producing  
mine on a  
separate  
lease

23. Where a person is carrying on operations in a mine which is in regular production and is also the ownerof, or has the right to work, a mine from which he has no production during the charge year, being a mine which is on a mining lease separate to that of the producing mine, the capital expenditure incurred by such person in such charge year on the mine which has no production may be deducted in ascertaining the gains or profits of the person from mining operations in such charge year.

Provided that the amount of tax which would otherwise be payable by such person in such charge year shall not be reduced by more than twenty per centum as a result of this deduction.

Amendment  
of Charging  
Schedule

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

(a) in the proviso to sub-paragraph (b) of paragraph 10 by the insertion immediately after the words " interest payments " of the words " or payments received due to the redemption or re-discounting of Treasury Bills or any other similar financial instrument sold at a discount from face value ";

(b) by the insertion after paragraph 12. of the following new paragraph:

12A. (1) For the purposes of this paragraph " large-scale mining enterprise " means a mining enterprise which is so designated in the *Gazette* by the Minister responsible for mines.

Tax on  
large-scale  
mining  
enterprises

(2) Subject to the provisions of paragraphs 13, 14, 15 and 16, a large-scale mining enterprise, which is incorporated in the Republic, shall be charged tax on the income for a charge year at the relevant rates specified for such income in the Table appropriate to such charge year contained in Annexure " F " to this Schedule.

(3) Subject to the provisions of paragraphs 13, 14, 15 and 16, a large-scale mining enterprise, which is not incorporated in the Republic, shall be charged taxed as if it were incorporated in the Republic:

Provided that the remittance of any income of such enterprise to a person other than a person incorporated in the Republic shall be taxed as if it were a remittance of dividend;

(c) by the insertion after Annexure "E" of the following new Annexure:

ANNEXURE "F"

RATES FOR LARGE-SCALE MINING ENTERPRISES

Paragraph 12A

Table 1: With effect from 1st April, 1994

	Rate per centum
On income of companies	35 or $60-480/X^*$ whichever is greater

\*where "X" is the ratio of chargeable income to gross revenue, multiplied by one hundred.;

(d) by the deletion of the title to Annexure "J" and the substitution thereof of the following title:

RATES FOR WITHHOLDING TAX UNDER SECTION 81A AND 81C



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