

GOVERNMENT OF ZAMBIA

---

**ACT**

No. 9 of 1998

Date of Assent: 21st April, 1998

**An Act to amend the Income Tax Act**

[24th April, 1998

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 1998, 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. 323

(2) This Act shall come into operation on the 1st April, 1998 and, subject to any provisions to the contrary, shall have effect in relation to the assessments for the charge year which ends on 31st March, 1999 and in relation to each subsequent charge year.

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

Amendment of section 2

(a) by the deletion of the definition of “ an effective shareholder ” and the substitution therefor of the following:

“ effective shareholder ” in relation to a company, means a person who is the beneficial owner of, or able to control either alone or with his nominees or with its nominees, five per centum or more of the issued share capital of, or voting powers in, such a company; and

(b) by the insertion in the appropriate place of the following new definition:

“ former Zambia Consolidated Copper Mining Company ” means any part or division of the Zambia Consolidated Copper Mining Company sold under the Privatisation Act.

Cap. 386

Amendment  
of section 14

3. Section *fourteen* of the principal Act is amended—

(a) by the deletion of paragraph (b) and the substitution therefor of the following:

(b) by any individual who is ordinarily resident in the Republic, or by every person, not being an individual, who is resident in the Republic, by way of interest and dividends from a source outside the Republic;

(b) by the deletion of subsections (2) and (3) and the substitution therefor of the following:

(2) Subject to the other provisions of the Act, in the case of an individual, the amount of tax which, apart from this subsection, would be charged in respect of any income received by that person in that charge year other than income which the Commissioner-General is prohibited from including in any assessment under the proviso to subsection (1) of section *sixty-three* shall be reduced by the amount of the tax credit appropriate to such person for that charge year as specified in the Charging Schedule and that person shall be liable to pay tax for that charge year an amount equal to that reduced amount:

Provided that any assessment of that income shall—

(a) be for the whole amount of tax due before any tax credit; and

(b) show the amount due and payable after the reduction by the amount of any tax credit due.

(3) Any amount of tax payable before the application of a tax credit shall not be reduced below zero by the tax credit and the tax credit shall not give rise to a repayment of tax.

(4) The amount of a tax credit to which a person is entitled for any charge year shall not be allowed more than once against that person's income for that year.

(5) An individual shall not be entitled to a tax credit except—

(a) against income provided for under section *seventy-one* and if the tax credit is allowed in accordance with Regulations made under that section; or

(b) against income declared in a return under section *forty-six*;

(c) by the re-numbering of subsection (4) as subsection (6).

4. Section *eighteen* of the principal Act is amended—

Amendment  
of section 18

(a) in subsection (3) by the deletion of the words “ ordinarily resident in the Republic or where a person ordinarily resident in the Republic ” and the substitution therefor of “ to whom this subsection applies ”;

(b) by the insertion after subsection (3) of the following:

(4) Subsection (3) shall apply to—

(a) any individual who is ordinarily resident in the Republic; and

(b) to any person, not being an individual, who is resident in the Republic; and

(c) by the re-numbering of subsection (4) as subsection (5).

5. Section *nineteen* of the principal Act is amended in subsection (1) by the deletion of the words “ subject to the provisions of subsection (1) ”.

Amendment  
of section 19

6. Section *twenty-three* of the principal Act is amended in subsection (1) by the deletion of the proviso.

Amendment  
of section 23

7. Section *thirty* of the principal Act is amended in subsection (2) by the deletion of the proviso and the substitution therefor of the following:

Amendment  
of section 30

Provided that:

(i) in the case of any loss incurred by any former Zambia Consolidated Copper Mining Company, the loss shall not be carried forward beyond ten subsequent years after the charge year in which the loss was incurred;

(ii) in any other case, the loss shall not be carried forward beyond five subsequent years after the charge year in which the loss was incurred; and

(iii) losses brought forward as at 31st March, 1997, shall be deemed to have been incurred in the charge year ending 31st March, 1997.

8. Section *forty-four* of the principal Act is amended—

Amendment  
of section 44

(a) by the deletion of paragraph (f);

- (b) in paragraph (h) by the deletion in sub-paragraph (iii) of the proviso of "K20.00" and by the substitution therefor of "K25,000"; and
- (c) in paragraph (l) by the addition after "benefit" of "or".
- Amendment of section 45B      **9.** Section *forty-five* B of the principal Act is amended in subsection (1) by the insertion—
- (a) in Column 1 immediately below the words "Zambia Electricity Supply Corporation Limited", of the words "Registrar of Companies and Business Names"; and
- (b) in Column 2 immediately below the words "payment of deposit for power connection", of the words "registration of companies and business names".
- Amendment of section 46      **10.** Section *forty-six* of the principal Act is amended—
- (a) in subsection (2)—
- (i) in paragraph (a), by the insertion at the end of the paragraph of the words "but excluding any income which cannot be assessed by virtue of the proviso to subsection (1) of section *sixty-three*;
- (ii) in paragraph (b), by the deletion of the words "such personal allowances", and by the substitution therefor of "any"; and
- (b) by the deletion in subsection (4) of the proviso and the substitution therefor of the following:
- Provided that the Commissioner-General may in his discretion remit the whole or part of any such penalty.
- Amendment of section 46A      **11.** Section *forty-six* A of the principal Act is amended—
- (a) in subsection (1)—
- (i) by the addition of the words "and tax" after "Provisional income";
- (ii) by the deletion of the words "other than" and the substitution therefor of the word "including"; and
- (b) in the proviso to subsection (1) by the deletion of the words "six hundred thousand Kwacha" and the substitution therefor of the words "eight hundred and forty thousand Kwacha".
- Amendment of section 63      **12.** Section *sixty-three* of the principal Act is amended in subsection (1), by the deletion in paragraph (iv) of the words "interest or royalties" and the substitution therefor of "interest, royalties or any management or consultancy fee".

13. Section *seventy-one* of the principal Act is amended— Amendment of section 71
- (a) by the deletion of subsection (4); and
  - (b) by the deletion in subsection (8) of the words “ personal allowances ”.
14. Section *seventy-eight* of the principal Act is amended— Amendment of section 78
- (a) by the deletion of subsections (1), (1A), 1B and (2) and by the substitution therefor of the following:
    - (1) Any person who fails to pay any amount of tax within one month of the date on which, under section *seventy-seven* that payment is due, shall be liable to the penalty specified in subsection (3).
    - (2) Any person who fails to pay any amount of provisional tax within fourteen days of the date on which under section *seventy-seven*, that payment is due, shall be liable to the penalty specified in subsection (3).
    - (3) Any person who fails to pay any amount of tax or provisional tax under subsections (1) and (2) shall be liable to pay in respect of each month during which that amount or any part of it remains unpaid an amount equal to five per cent of that amount or so much of it as remains unpaid during the month in question.
    - (4) Where any person contravenes more than one provision of this Act in respect of tax or provisional tax on the same income in respect of the same period of time, that person shall be liable to pay only one penalty under this section in respect of those contraventions;
  - (b) by the deletion in subsection (4) of the words “ and subsection (2) ” and
  - (c) by the renumbering of subsections (3), (4), (5), (6), (7) and (8) as subsections (5), (6), (7), (8), (9) and (10) respectively;
15. Section *seventy-eight A* of the principal Act is amended— Amendment of section 78A
- (a) in subsection (1) by the addition after “ overdue ” of “ as specified in regulations made under sections *seventy-one* and ”;
  - (b) by the insertion immediately after subsection (3) of the following new subsection:
    - (4) Any interest imposed under this section shall, for the purposes of this Act relating to collection and recovery, be deemed to be tax.

- Repeal of section 80      **16.** The principal Act is amended by the repeal of section *eighty*.
- Amendment of section 81      **17.** Section *eighty-one* of the principal Act is amended—  
     (a) in subsection (1) by the deletion of the words “ pioneer industry dividend ” and of the words “ paragraph (a) of ”; and  
     (b) by the deletion of subsection (7).
- Insertion of new section 81A      **18.** The principal Act is amended by the insertion immediately after section *eighty-one* of the following new section:
- Deduction of tax from payment made to non-resident contractor      **81A.** (1) Every person or partnership on making any payment on or after 1st April, 1998, to or on behalf of a non-resident contractor in respect of construction or haulage operations, irrespective of whether such payment is made outside the Republic or not, shall, before making any other deductions whatsoever, deduct tax from such payment at the rate specified in Annexure L of Part III of the Charging Schedule and that person or partnership shall account for such tax as if it were a payment subject to Part VI of the Act.
- (2) For the purposes of this section—  
     (a) “ non-resident contractor ” means—  
         (i) an individual, who is neither resident nor ordinarily resident in the Republic; or  
         (ii) any other person or partnership who is not resident in the Republic and who does not have a permanent establishment in the Republic;  
     (b) a partnership shall be resident in the Republic—  
         (i) if the partners are resident or ordinarily resident in the Republic; or  
         (ii) if they are not all resident or ordinarily resident in the Republic, where the majority of the partners are resident or ordinarily resident in the Republic;  
     (c) “ construction operations ” include—  
         (i) the erection, alteration, maintenance, repair, extension or demolition of any building or structure, whether permanent or not;

- (ii) the installation in any building or structure of heating, elevators, air conditioning, ventilation, power, drainage, sanitation, water or fire protection, or like supplies or services;
- (iii) the painting or decorating of the internal or external surfaces of any building or structure;
- (iv) any operations which are an integral part of, or prior to, or which render complete, the operations described in paragraphs (i) to (iii) of this subsection; and
- (d) "haulage operations" includes transportation by land, water or air of persons, livestock or any goods whatsoever including farm produce, or produce of a like nature, or ores and minerals, food stuffs and merchandise.
- 19.** The principal Act is amended by the repeal of section *eighty-one C*. Repeal of section 81C
- 20.** Section *eighty-seven* of the principal Act is amended in subsection (1) (c) by the deletion of the word "*seventy-eight*" and the substitution therefor of the word "*seventy-six*". Amendment of section 87
- 21.** Section *one hundred and two* of the principal Act is amended by the insertion immediately after subsection (2) of the following new subsection— Amendment of section 102
- (3) Any reference in this section to income or tax includes a reference to provisional income and provisional tax, respectively.
- 22.** The principal Act is amended by the repeal of section *one hundred and fifteen*. Repeal of section 115
- 23.** The Second Schedule to the principal Act is amended by the deletion in paragraph 7 of sub-paragraphs (i) and (o). Amendment of Second Schedule
- 24.** The Fifth Schedule to the principal Act is amended— Amendment of Fifth Schedule
- (a) by the deletion in paragraph 1 of sub-paragraph (4) and the substitution therefor of the following:
- (4) Any building constructed or acquired by a person to provide housing for the purposes of that person's business is an industrial building for the purposes of this Part:

Provided that—

- (i) the cost for each housing unit does not exceed K2,000,000 (in this paragraph referred to as low cost housing);
- (ii) this sub-paragraph shall have effect in relation to expenditure incurred on or after 1st April, 1997;

(b) in paragraph 23 by the deletion of the proviso and the substitution therefor of the following:

Provided that—

- (i) the amount of tax which would otherwise be payable by such person in that charge year is not reduced by more than twenty per centum as a result of this deduction; and
- (ii) item (i) shall not apply to any former Zambia Consolidated Copper Mining Company.

Amendment  
of Charging  
Schedule

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

(a) in sub-paragraph (b) of paragraph 10 by the insertion after item (v) of the proviso of the following new item:

- (vi) the maximum rate of tax on that portion of income which is determined by the Commissioner-General as originating from the chemical manufacture of fertilizer shall be fifteen per cent; and

(b) in paragraph 11 by the insertion after item (iv) of the proviso of the following new item:

- (v) the maximum rate of tax on that portion of income which is determined by the Commissioner-General as originating from the chemical manufacture of fertilizer shall be fifteen per cent.

Amendment  
of Annexures

26. The Annexures to the principal Act are amended—

(a) in Annexure A in Part II by the deletion of Table 3 and the substitution therefor of the following:

TABLE 4

*With effect from 1st April, 1998*

Individual tax credit under

sub-paragraph 9 (1) .....K84,000

(b) in Annexure H by the deletion of Table 8 and the substitution therefor of the following:

TABLE 9

<i>With effect from 1st April, 1998</i>	<i>Rate per centum</i>
Any dividend paid by any former Zambia Consolidated Copper Mining Company; and	10%
Any other dividend	15%

(c) in Annexure G by the deletion of Table 8 and the substitution therefor of the following:

TABLE 9

<i>With effect from 1st April, 1998</i>	<i>Rate per centum</i>
Any interest paid by any former Zambia Consolidated Copper Mining Company; and	10%
Any other interest	15%

(d) by the insertion after Annexure K of the following:

## ANNEXURE L

TABLE 1

<i>With effect from 1st April, 1998</i>	<i>Rate per centum</i>
Withholding tax rate on payments made to a non-resident contractor under section <i>eighty-one A</i> .	15%

---

