

GOVERNMENT OF ZAMBIA

ACT

No. 4 of 2007

Date of Assent: 12th April, 2007

An Act to amend the Income Tax Act

[13th April, 2007

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2007, and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

Short title
and
enactment
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(2) This Act shall come into operation on 1st April, 2007, and subject to any provisions to the contrary, shall have effect in relation to the charge of tax for the charge year which ends on 31st March, 2008, 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) in the definition of “dividend” by the deletion of the words “or any amount deemed to have been distributed pursuant to the provisions of section *ninety-five*”;

(b) by the insertion in the definition of “effective shareholder” of the word “with” after the words “either alone or”

(c) by the deletion of the definition of “management or consultant fee” and the substitution therefor of the following definition:

“management or consultant fee” means a payment in any form, other than an emolument, for or in respect of any creation, design, development, installation and maintenance of any information technology or solution, programme or system,

administrative, consultative, managerial, technical, or any other service of a like nature;

(d) by the insertion in the appropriate places of the following new definitions:

“ finance lease ” means a lease of implements, machinery, or plant where—

(i) the term of the lease, including any period under an option to renew, is equal to or exceeds seventy-five per centum of the effective life of the leased implements, plants or machinery;

(ii) the lessee has an option to purchase the implements, plants or machinery at the expiration of the lease for a fixed or determinable price;

(iii) the estimated residual value of the implements, plant or machinery at the expiration of the lease term is less than twenty-five per centum of its fair market value at the commencement of the lease; or

(iv) the lessor does retain the risks and rewards of ownership; and

“ mining operations ” means any operation carried out under a mining right referred to in section six of the Mines and Minerals Act, but does not include operations involving only mineral processing;

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Amendment
of section 21

3. Section *twenty-one* of the principal Act is amended in subsection (5) by the deletion of the words “ ten million Kwacha ” and the substitution therefor of the words “ twenty million Kwacha ”.

Amendment
of section 37

4. Section *thirty-seven* of the principal Act is amended—

(a) in subsection (1) by the deletion in subparagraph (ii) of paragraph (c), in paragraph (d) and in paragraph (e) of the words “ one hundred and eighty thousand kwacha ” and the substitution therefor of the words “ one million, six hundred and twenty thousand Kwacha; ”

(b) in subsection (3) by the deletion in paragraph (b) of the words “ one hundred and eighty thousand Kwacha ” and the substitution therefor of the words “ seven hundred and twenty thousand Kwacha ”; and

(c) in subsection (4) by the deletion of the words "one hundred and eighty thousand Kwacha" and the substitution thereof of the words "seven hundred and twenty thousand Kwacha".

5. Section *sixty-three* of the principal Act is amended in clause (v) of the proviso to subsection (1) by the insertion of the words "and such tax deducted is the final tax for any individual, charitable institution, body, person or trust exempted under subparagraph (1) of paragraph 5 and subparagraph (1) of paragraph 6 of the Second Schedule" after the words "deducted under section *eighty-two A*".

Amendment
of section 63

6. Section *sixty-four A* of the principal Act is amended in the proviso to subsection (2) by the insertion after the word "services" of the words "or to income earned from a business that qualifies for voluntary registration under the Value Added Tax Act and is issued with a value added tax registration certificate".

Amendment
of section
64A
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7. Section *seventy-one* of the principal Act is amended in the proviso to subsection (1) by the insertion of the words "or to income, for an individual, on which turnover tax has been assessed in accordance with subsection (2) of section *sixty-four A*" after the words "non-money fringe benefits".

Amendment
of section 71

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

Insertion of
new section
81C

81C. (1) Subject to subsection (3), every person or partnership importing goods for commercial purposes shall pay an advance tax on income in respect of those goods at the port of entry at the rate specified in the Charging Schedule:

Advance tax
on income in
respect of
imported
goods

Provided that the provisions of this subsection shall not apply to goods which are imported for personal use.

(2) At the end of each charge year, any person who or partnership that has paid the advance tax referred to in subsection (1) shall submit the receipt issued in respect of the payment with the returns made under section *forty-five*.

(3) The Minister may, in consultation with the Commissioner-General, by statutory instrument, prescribe—

(a) the circumstances under which the provisions of this section shall not apply to any person or partnership; or

(b) the extent to which and the period for which the provisions of this section shall not apply to any person or partnership, as the case may be.

Amendment
of Second
Schedule

9. The Second Schedule to the principal Act is amended in paragraph 7 by the deletion of subparagraph (u) and the substitution therefor of the following paragraph:

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of 2006

(u) by a person designated as a micro or small enterprise under the Zambia Development Agency Act, 2006:

Provided that—

- (i) for an enterprise in an urban area the income shall be exempt from tax for the first three years; and
- (ii) for an enterprise in a rural area the income shall be exempt from tax for the first five years;

Amendment
of Fifth
Schedule

10. The Fifth Schedule to the principal Act is amended—

(a) by the insertion immediately after paragraph 4 of the following new paragraph:

Deduction of
improvement
allowance
Act No. 11
of 2006

4A. In ascertaining for any charge year the business profits of any person approved under the Zambia Development Agency Act, 2006 which in that year uses for business an industrial or commercial building which the person has constructed, or altered, a deduction shall be allowed (called improvement allowance) for that charge year at a per centum of the original cost to such person as set out in Part V;

- (b) in subparagraph (2) of paragraph 10 by the insertion immediately after the words " Hire Purchase Act " of the words " or a finance lease ";
- (c) by the insertion in paragraph 18 after the words " and for commercial buildings " of the following:

Under paragraph 4A—

improvement allowance for commercial and industrial buildings one hundred per centum; and

- (d) by the deletion in paragraph 22A of the word " twice " after the words " exceed an amount equal to more than " and the substitution therefor of the word " thrice ".

Amendment
of Charging
Schedule

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

- (a) in clause (b) of subparagraph (1) of paragraph 1 by the deletion of the words " thirty-six thousand kwacha per annum " and the substitution therefor of the words " one hundred and forty-four thousand Kwacha per annum ";

(b) in subparagraph (1) of paragraph 2—

(i) by the deletion in clause (c) of the words “ three million, eight hundred and forty thousand Kwacha ” and the substitution therefor of the words “ six million Kwacha ”; and

(ii) by the deletion of clauses (d), (e) and (f) and the substitution therefor of the following new clauses:

(d) on the balance of so much of an individual's income as exceeds six million Kwacha but does not exceed fourteen million, four hundred thousand Kwacha at the rate of twenty-five per centum per annum;

(e) on the balance of so much of an individual's income as exceeds fourteen million, four hundred thousand kwacha but does not exceed sixty-two million, four hundred thousand Kwacha at the rate of thirty per centum per annum; and

(f) on the balance of so much of an individual's income as exceeds sixty-two million, four hundred thousand Kwacha at the rate of thirty-five per centum per annum.

(c) in subparagraph (1) of paragraph 3 by the deletion of clause (e) and the substitution therefor of the following clause:

(e) on the income of any mining company holding a large scale mining licence issued under section *twenty-five* of the Mines and Minerals Act and carrying on the mining of base metals at the rate of thirty per centum per annum:

Provided that a mining company holding a large scale mining licence issued under section *twenty-five* of the Mines and Minerals Act and carrying on the mining of base metals and is a party to a development agreement signed prior to 1st April, 2007, pursuant to section *nine* of the Mines and Minerals Act, shall after the commencement of this Act renegotiate with the Government the rate of tax to be paid by such company to the Government and any such rate

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which is agreed upon in the negotiations shall be the rate payable under the development agreement.

(d) in paragraph 5 by the insertion immediately after subparagraph (d) of the following new subparagraphs:

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(e) on the income of a business enterprise operating in a priority sector declared under the Zambia Development Agency Act, 2006 tax shall be charged—

- (i) at zero per centum for a period of five years starting from the first year profits are returned;
- (ii) fifty per centum from the sixth to the eighth year after profits are returned; and
- (iii) at seventy-five per centum from the ninth to the tenth year and at hundred per centum after the tenth year after profits are returned; and

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2006

(f) tax to be deducted from any dividend declared by a company operating under a priority sector declared under the Zambia Development Agency Act, 2006, shall for a period of five years from the date of the first declaration be at the rate of zero per centum per annum.;

(e) in paragraph 6 —

- (i) by the renumbering of that paragraph as subparagraph (1); and
- (ii) by the insertion immediately after subparagraph (1) of the following new subparagraph:

(2) The tax required to be paid on any import under section *eighty-one C* shall be at the rate of three per centum of the value for duty purposes, of the goods.;

(f) by the deletion of the proviso to paragraph 7 and the substitution therefor of the following new proviso:

Provided that—

- (i) tax required to be deducted from any payment of interest, other than interest on Government Bonds, to an individual under section *eighty-*

two A shall be deducted at the rate of twenty-five per centum per annum, and shall be the final tax; “ and ”

(ii) tax required to be deducted from payments of interest on Government Bonds to an individual shall be the final tax;

(iii) tax required to be deducted from payment of interest on Treasury Bills and Government Bonds to any charitable institution, body, person or trust exempted under subparagraph (1) of paragraph 5 and subparagraph (1) of paragraph 6 of the Second Schedule shall be the final tax; and

(iv) any mining company holding a large scale mining licence issued under section *twenty-five* of the Mines and Minerals Act and carrying the mining of base metals and is a party to a development agreement signed prior to 1st April, 2007, pursuant to section *nine* of the Mines and Minerals Act shall, after the commencement of this Act renegotiate with the Government the rate of withholding tax to be paid by such company to the Government and any such rate which is agreed upon in the negotiation shall be the rate payable under the development agreement.

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12. The principal Act is amended by the deletion of the words “ section *twenty-three* of the Mines and Minerals Act ” wherever they appear and the substitution therefor of the words “ section *twenty-five* of the Mines and Minerals Act ”.

Amendment
of principal
Act

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