

GOVERNMENT OF ZAMBIA

ACT

No. 27 of 2011

Date of Assent: 28th December, 2011

An Act to amend the Income Tax Act.

[29th Decmeber, 2011

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2011, 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 1st April, 2012, and subject to any provisions to the contrary, shall have effect in relation to the charge of tax for the charge year ending on 31st December, 2012, 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 “business” and the substitution therefor of the following definition:

“business” includes—

(a) any profession, vocation or trade;

(b) any adventure or concern in the nature of trade, whether singular or otherwise;

(c) manufacturing;

(d) farming;

(e) hedging;; and

(b) by the deletion of the definition of “charge year” and the substitution therefor of the following definition:

“charge year” means the year for which tax is charged, that is, the period of twelve months ending on the 31st December, and each succeeding such year:

Provided that for the year commencing on 1st April, 2012, and ending 31st December, 2012, the charge year shall be for a period of nine months.

Amendment
of section 18

3. Section *eighteen* of the principal Act is amended in subsection (1) —

(a) by the deletion, at the end of paragraph (g), after the semi-colon, of the word “ or”;

(b) by the deletion of the full stop at the end of paragraph (h) and the substitution therefor of a semi-colon and the word “ or ”; and

(c) by the insertion, immediately after paragraph (h), of the following new paragraph:

(i) arises from a commission incurred in the production of income or in the carrying on of a business in the Republic, or paid directly or indirectly out of funds derived from within the Republic.

Amendment
of section
30A

4. Section *thirty A* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

(1) The losses to be deducted by a person carrying out any mining operations and keeping books of accounts in United States dollars under subsection (3) of section *fifty-five* shall be indexed losses.

Amendment
of section
33

5. Section *thirty-three* of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following:

(2) The capital allowances to be claimed by a person carrying out any mining operations and keeping books of accounts in United States dollars under subsection (3) of section *fifty-five* shall be indexed capital allowances.

Amendment
of section
45B

6. Section *forty-five B* of the principal Act is amended in subsection (1) by the deletion, in columns 1 and 2, of the words “ Registrar of Companies and Business Names ” and “ Registration of companies and business names ”, respectively.

Amendment
of section 46

7. Section *forty-six* of the principal Act is amended in subsection (3) by the deletion of the words “ 30th September ” and the substitution therefor of the words “ 30th June ”.

Amendment
of section 46A

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

(a) by the deletion of subsection (3) and the substitution therefor of the following:

(3) The return of provisional income referred to in subsection (2) shall be furnished—

- (a) in any charge year, not later than the 31st March of the charge year to which the return relates; and
- (b) in the charge year ending 31st December, 2012, not later than 30th June, 2012:

Provided that where during the course of the charge year, any person discovers that the return of provisional income furnished under this section is likely to be substantially incorrect because of changed circumstances, such person shall furnish a revised return of provisional income and in such a case, any alteration in the amount of estimated tax payable shall be taken into account in the next instalment, pursuant to section *seventy-seven*, immediately following the date of such revised return.; and

(b) by the deletion of subsection (4) and the substitution therefor of the following:

(4) Where an individual is not required to make a return of provisional income and tax—

- (a) for any charge year; and
- (b) for the charge year ending 31st December, 2012;

by virtue of the proviso to subsection (1), but at a time subsequent to 31st March in that year, and in the case of paragraph (b) at a time subsequent to 30th June, 2012, that proviso ceases to apply to the individual, that individual shall make a return in accordance with subsections (1) and (2) within fourteen days of the proviso ceasing to apply to that individual.

9. Section *sixty-two* of the principal Act is amended in subsection (3A) by the deletion of the words “ 31st March ” and the substitution therefor of the words “ 31st December ”.

Amendment
of section 62

Amendment
of section 63

10. Section *sixty-three* of the principal Act is amended in paragraph (iv) of the proviso to subsection (1)—

- (a) by the deletion, immediately after the words “ fee royalties ”, of the word “ or ” and the substitution thereof of a comma; and
- (b) by the insertion, immediately after the words “ consultancy fee ”, of the words “ or commission ”.

Amendment
of section 77

11. Section *seventy-seven* of the principal Act is amended—

- (a) in subsection (1), by the deletion of the words “ 30th September ” and the substitution thereof of the words “ 30th June ”;
- (b) by the deletion of subsection (1C) and the substitution thereof of the following subsection:

(1C) Provisional tax for any charge year required to be paid under subsection (1B) shall be paid during the charge year in four instalments, each one of which shall be equal to one quarter of the amount of provisional tax shown in the return and shall be paid as follows:

- (a) 1st instalment, on 31st March;
- (b) 2nd instalment, on 30th June;
- (c) 3rd instalment, on 30th September; and
- (d) 4th instalment, on 31st December;

of the charge year to which such return of provisional income relates.;

- (c) by the insertion immediately after subsection (1C) of the following new subsection:

(1D) Notwithstanding subsection (1C), provisional tax required for the charge year ending 31st December 2012, liable to be paid under subsection (1B), shall be paid during the charge year in three instalments, each one of which shall be equal to one third of the amount of provisional tax shown in the return and shall be paid as follows:

- (a) 1st instalment, on 30th June, 2012;
- (b) 2nd instalment, on 30th September, 2012; and
- (c) 3rd instalment, on 31st December, 2012.;
- (d) by the deletion in subsection (2B), of paragraphs (a) and (b) and the substitution thereof of the following:

(a) in any charge year—

(i) be made in instalments on the dates specified in subsection (1C); and

(ii) be equal in amount to the amount of provisional tax shown in the return divided by four; and

(b) in the charge year ending 31st December, 2012—

(i) be made in instalments on the dates specified in subsection (1D); and

(ii) be equal in amount to the amount of provisional tax shown in the return divided by three:

Provided that where an instalment payment has been made before an instalment of a revised amount is due under this subsection, the amount of that revised instalment shall be increased or reduced, as the case may require, to take into account the excess or shortfall in the earlier payment or payments; and

(e) by the insertion, in subsection (5), immediately after the figure “(1C)”, of a comma and the figure “(1D)”.

Amendment
of section
81B

12. Section *eighty-one B* of the principal Act is amended in subsection (7) by the deletion of the definition of “property” and the substitution therefor of the following definition:

“property” has the meaning assigned to it in the Property Transfer Tax Act;.

Cap. 340

Amendment
of section 82A

13. Section *eighty-two A* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

(1) Subject to the provisions of this section, every person or partnership making a payment of—

(a) a management or consultant fee deemed under section *eighteen* to be from a source within the Republic;

(b) interest and royalties from a source within or deemed, under section *eighteen*, to be within the Republic:

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 purposes of this section to be payment of interest when any such treasury bill or any other similar financial instrument is presented for redemption or re-discount;

(c) rent from a source within the Republic;

(d) commissions, other than commissions received by an individual whose income is from employment or office:

Provided that the Commissioner-General may determine that the provisions of paragraph (c) or (d) shall not apply in any particular case and shall, in writing, direct the person or partnership concerned in that behalf, and the provisions of paragraph (c) or (d) as applicable shall not apply to such person or partnership to the extent and to the period specified in such direction;

(e) a public entertainment fee to, or on behalf of, a person or persons in partnership not resident in the Republic; or

(f) commission deemed under section *eighteen* to be from a source within the Republic;

irrespective of whether such payment under this subsection is made outside the Republic shall, before making any other deductions, deduct tax from the payment referred to in paragraphs (a), (b), (c), (d), (e) and (f), at the rate specified in the Charging Schedule or as the Commissioner-General may direct to give effect to the provisions of any agreement made under section *seventy-four* or the provisions of the Second Schedule and that person or partnership shall account for such tax as if that payment were subject to Part VI and for the purposes of this subsection, payment shall be deemed to be made when the income is received by the recipient as provided in section *five*.

Amendment
of section 100

14. Section *one hundred* of the principal Act is amended in subsection (1)—

(a) by the insertion immediately after sub-paragraph (i) of the following sub-paragraph:

(ii) in relation to a person liable to pay turn over tax—

- (A) in the case of negligence, one point five percent of the amount;
- (B) in the case of willful default, three percent of the amount; and
- (C) in the case of fraud, four point five percent of the amount;

of any income omitted or understated, in consequence of such failure or incorrect return; and

(b) by the re-numbering of sub-paragraph (ii) as sub-paragraph (iii).

15. The Charging Schedule to the principal Act is amended—
(a) in sub-paragraph (1) of paragraph 2 by—

Amendment
of Charging
Schedule

- (i) the deletion in clause (c), of the words “ twelve million kwacha ” and the substitution therefor of the words “ twenty-four million kwacha ”;
- (ii) the deletion in clause (d), of the words “ twelve million kwacha ” and “ twenty million, eight hundred and twenty thousand kwacha ” and the substitution therefor of the words “ twenty-four million kwacha ” and “ thirty-three million, six hundred thousand kwacha ” respectively;
- (iii) the deletion in clause (e), of the words “ twenty million, eight hundred and twenty thousand kwacha ” and “ fifty million, four hundred thousand kwacha ” and the substitution therefor of the words “ thirty-three million, six hundred thousand kwacha ” and “ sixty-eight million, four hundred thousand kwacha ” respectively; and
- (iv) the deletion in clause (f), of the words “ fifty million, four hundred thousand kwacha ” and the substitution therefor of the words “ sixty-eight million, four hundred thousand kwacha ”;

(b) by the insertion, immediately after sub-paragraph (1) of paragraph 2, of the following new sub-paragraph:

(1A) Notwithstanding sub-paragraph (1) and subject to the other provisions of this Act, tax in respect of the income of an individual for the charge year ending 31st December, 2012, shall be charged as follows:

- (a) on income received by way of lump sum payment, under section *eighty-two*, at the rate of ten percent:

Provided that the refund of employer's contribution from a defined contributory pension fund or scheme and defined benefit fund or scheme shall be taxed in accordance with clauses (b), (c), (d), (e) and (f);

- (b) on any income falling within subsection (5) of section *twenty-one* which is not exempt from tax under that subsection, at the rate of ten percent;
- (c) on the balance of so much of an individual's income as does not exceed eighteen million kwacha, at the rate of zero percent;
- (d) on the balance of so much of an individual's income as exceeds eighteen million kwacha, but does not exceed twenty-five million, two hundred thousand kwacha at the rate of twenty-five percent;
- (e) on the balance of so much of an individual's income as exceeds twenty-five million, two hundred thousand kwacha, but does not exceed fifty-one million, three hundred thousand kwacha, at the rate of thirty percent; and
- (f) on the balance of so much of an individual's income as exceeds fifty-one million, three hundred thousand kwacha at the rate of thirty-five percent.;
- (c) by the insertion, immediately after sub-paragraph (2) of paragraph 2, of the following new sub-paragraph:

(2A) Notwithstanding sub-paragraph (2), in the charge year ending 31st December, 2012, where a person receives income by way of gratuity under subsection (1) of section *twenty-one*, the gratuity shall be charged as follows:

(a) income not exceeding the amount set out in clause (c) of sub-paragraph (1A) of this paragraph shall be exempt; and

(b) the balance of so much of an individual's income as exceeds the income specified in clause (i), at the rate of twenty-five percent;

(d) in sub-paragraph (1) of paragraph 3 by—

(i) the deletion, in clause (b), of the words “a bank or” and the substitution therefor of the word “an”; and

(ii) the deletion of clauses (c) and (d) and the substitution therefor of the following:

(c) on so much of the income of any electronic communications network or service licensee as does not exceed two hundred and fifty million kwacha, at the rate of thirty-five percent per annum; and

(d) on so much of the income of any electronic communications network or service licensee as exceeds two hundred and fifty million kwacha, at the rate of forty percent per annum; and

(c) by the deletion, in clause (b) of paragraph 5, of the word “fifteen” and the substitution therefor of the word “ten”.



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