

THE INCOME TAX (AMENDMENT) BILL, 2015

MEMORANDUM

The object of this Bill is to amend the Income Tax Act so as to—

- (a) extend the application of the ten year period for carrying forward of losses to businesses carrying on electricity generation;
- (b) extend the application of withholding tax on management and consultancy fees to resident consultants;
- (c) clarify the tax treatment of winnings from gaming, lotteries and betting when such winnings are by virtue of employment or office held;
- (d) remove the withholding tax applicable on the discount income of Government bonds;
- (e) increase the capital allowance rate from twenty-five percent to fifty percent for businesses carrying on electricity generation;
- (f) clarify that only companies whose shares are listed on the Lusaka Stock Exchange qualify for a reduced corporate tax rate; and
- (g) provide for matters connected with, or incidental, to the foregoing.

A. MWANSA,
Solicitor-General

GOVERNMENT OF ZAMBIA

A BILL

ENTITLED

An Act to amend the Income Tax Act.

ENACTED by the Parliament of Zambia

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2015, and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

Short title
Cap. 323

5 (2) This Act shall come into operation on 1st January, 2016.

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

Amendment
of section 2

(a) the deletion of the definition of “hydro and thermo power generation”;

10 (b) the deletion, in the definition of “retirement age”, of the word “fifty-five” and the substitution therefor of the word “sixty”; and

(c) insertion, in the appropriate place, of the following new definition:

15 “electricity generation” means the production of electrical energy using physical and non-physical sources of energy such as water, wind, solar, petroleum, coal, biomass and any other source of energy except wood.

20 3. Section *twenty-one* of the principal Act is amended in paragraph (b) of subsection (5) by the insertion, immediately after the words “normal retirement”, of a comma and the words “late retirement”.

Amendment
of section
21

Amendment of section 30	<p>4. Section <i>thirty</i> of the principal Act is amended in paragraph (a) of subsection (3) by the deletion of the words hydro and thermo power and the substitution therefor of the word “electricity”.</p>	
Amendment of section 43B	<p>5. Section <i>forty-three B</i> of the principal Act is amended in subsection (1) by the deletion of the words “ section <i>sixty-six</i> of the Mines and Minerals Act ” and the substitution therefor of the words the “ Mines and Minerals Development Act, 2015 ”.</p>	5
Amendment of section 46	<p>6. Section <i>forty-six</i> is amended by the—</p> <p>(a) deletion of subsection (3) and the substitution therefor of the following:</p> <p style="padding-left: 40px;">(3) The return referred to in subsection (1) shall be furnished to the Commissioner-General—</p> <p style="padding-left: 80px;">(a) in the case of an electronic return, not later than 30th June following the end of any charge year; and</p> <p style="padding-left: 80px;">(b) in the case of a manual return, not later than 5th June following the end of any charge year; and</p> <p style="padding-left: 80px;">(b) deletion of subsection (4) and the renumbering of subsection (5) as (4).</p>	10 15 20
Amendment of section 46A	<p>7. Section <i>forty-six A</i> is amended in subsection (3) by the deletion of paragraph (a) and the substitution therefor of the following:</p> <p>(a) in any charge year —</p> <p style="padding-left: 40px;">(i) in the case of an electronic return, not later than 31st March of the charge year to which the return relates; and</p> <p style="padding-left: 40px;">(ii) in the case of a manual return, not later than 5th March of the charge year to which the return relates.</p>	25 30
Amendment of section 77	<p>8. Section <i>seventy-seven</i> of the principal Act is amended by the insertion immediately after subsection (4) of the following:</p> <p>(4A) Any tax payable by a person on the income received from letting property is due and payable within fourteen days after the end of the month in which the income is received as provided in section <i>five</i>.</p>	35

9. Section eighty-one B of the principal Act is amended by the deletion— Amendment of section 81B

(a) of subsections (2) and (3) and the substitution therefor of the following:

5 (2) A person, institution or authority empowered to issue a trading licence under any written law shall not issue the trading licence to an applicant unless the applicant produces a tax clearance certificate.

10 (3) A person, institution or authority empowered to issue an exploration licence, mining licence, mineral processing licence, gold panning certificate, mineral trading permit or mineral import or export permit under the Mines and Minerals Development Act, 2015, shall not issue the licence, certificate or permit to the applicant unless the applicant produces a tax clearance certificate.; and

Act No. 11 of 2015

(b) in subsection (7), of the definition of “ mining licence ”.

10. Section *eighty-two* A of the principal Act is amended in— Amendment of section 82A

20 (a) subsection (1) by the deletion of paragraphs (a) and (g) and the substitution therefor of the following:

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

(g) winnings from gaming, lotteries and betting other than winnings received by an individual by virtue of employment or office; and

35 (b) subsection (2) by the deletion of paragraphs (b) and (c) and the substitution therefor of the following:

40 (b) the payment of an amount in excess of the original issue price for a treasury bill sold at a discount from face value shall be deemed for the purposes of this section to be payment of interest when the treasury bill is presented for redemption or rediscount;

(c) the Commissioner-General may determine that the provisions of paragraph (a), (b), (c) or (d)

of subsection (1) do not apply in a particular case and shall, in writing, notify the person or partnership concerned that the provisions of paragraph (a), (b), (c) or (d) of subsection (1), as applicable, do not apply to that person or partnership to the extent and to the period specified in the notification;

- Amendment of section 111 Appeals from Tax Appeals Tribunal Act No. 1 of 2015
- 11.** The principal Act is amended by the repeal of section *one hundred and eleven* and the substitution therefor of the following:
- 111.** A person dissatisfied with a decision of the Tribunal may appeal against the decision in accordance with the Tax Appeals Tribunal Act, 2015.
- Amendment of section 112
- 12.** Section *one hundred and twelve* of the principal Act is amended in subsection (2) by the deletion of the words “ the High Court or ”.
- Amendment of the First Schedule
- 13.** The First Schedule to the principal Act is amended by the deletion of paragraph 9 and the substitution therefor of the following:
- (9) Amounts refunded to any person carrying on mining operations pursuant to paragraph (a) of subsection 4 of section *eighty-six* of the Mines and Minerals Development Act, 2015, shall be deemed to be income in the year that the refund is made.
- Amendment of the Fourth Schedule
- 14.** The Fourth Schedule to the principal Act is amended
- (a) in paragraph 2 by the deletion—
- (i) in item (ii) of clause (b) of subparagraph (2), of the figure “ 55 ” and the substitution therefor of the figure “ 60 ”; and
- (ii) in item (iii) of clause (a) of subparagraph (3), of the figure “ 55 ” wherever it appears and the substitution therefor of the figure “ 60 ”; and
- (b) in paragraph 4 by the deletion—
- (i) in clause (b) of subparagraph (3), by the deletion of the figure “ 55 ” and the substitution therefor of the figure “ 60 ”; and
- (ii) in clause (c) of subparagraph (3), by the deletion of the figure—

(aa) “ 55 ” and the substitution therefor of the figure “ 60 ”; and

(bb) “ 50 ” and the substitution therefor of the figure “ 55 ”.

- 5 **15.** The Fifth Schedule to the principal Act is amended—
- Amendment
of the Fifth
Schedule
- (a) in subparagraph (5) of paragraph 10 by the insertion, immediately after the word “ in ”, of the words “ electricity generation,”; and
- (b) in subparagraph (3) of paragraph 22 by the deletion of the words “ *one hundred and twenty two* of the Mines and Minerals Development Act, 2008 ” and the substitution therefor of the words “ *eighty-six* of the Mines and Minerals Development Act, 2015 ”.
- Act No. 11 of
2015
Act No. 11 of
2015
- 10 **16.** The Charging Schedule to the principal Act is amended
- Amendment
of the
Charging
Schedule
- 15 (a) in subparagraph (1) of paragraph 3 by the deletion of clause (a) and the substitution therefor of the following:
- (a) on the income of any company whose shares are listed on the Lusaka Stock Exchange in the first year of its listing, at the rate of two per cent below the rates specified—
- 20 (i) in clauses (b), (c), (d) and (e) of this subparagraph; and
- (ii) in clauses (b), (c) and (d) of paragraph 5;
- 25 Provided that—
- A. a company whose shares were listed on the Lusaka Stock Exchange prior to 1st April, 2004, shall not qualify for the tax incentive referred to in this clause;
- 30 B. where a company, whose shares are listed on the Lusaka Stock Exchange on or after 1st April, 2004, offers and sells one third of its shares to indigenous
- 35 Zambians in the year of

listing, the income of that company shall be charged at an additional discounted rate of five per cent below the rates specified— 5

(i) in clauses (b), (c), (d) and (e) of this subparagraph; and

(ii) in clauses (b), (c) and (d) of paragraph 5; and

C. where a company, whose 10 shares are listed on the Lusaka Stock Exchange on or after 1st April, 2004, offers and sells one third of its shares to indigenous 15
Zambians, the income of that company shall be charged at a rate of five per cent below the rates specified—

(i) in clauses (b), (c), (d) and (e) 20 of this subparagraph; and

(ii) in clauses (b), (c) and (d) of paragraph 5; for the period that the one third of the company's shares are 25 owned by indigenous Zambians; and

(b) in paragraph 5 by the insertion of the following new clause:

(g) the maximum rate of tax for income received by a person from the letting of property shall be 30 ten percent per annum.