

THE INCOME TAX (AMENDMENT) BILL, 2021

MEMORANDUM

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

- (a) increase the PayAsYou Earn tax free threshold for individuals to fifty-four thousand Kwacha per annum;
- (b) provide for the deductibility of mineral royalty for corporate income tax assessment purposes;
- (c) reduce the standard corporate income tax rate to thirty percent;
- (d) extend the application of a fifteen percent income tax rate on income earned by persons providing accommodation and food services to 31st December, 2022;
- (e) exempt the payment of withholding tax on interest from interest earning accounts held by individuals with institutions registered under the Banking and Financial Services Act, 2017;
- (f) revise the rental income tax regime;
- (g) suspend the application of income tax to persons carrying on the business of manufacturing ceramic products for the charge years 2022 and 2023;
- (h) extend the period for which disallowed interest deduction can be carried forward by persons carrying on a mining operation or electricity generation;
- (i) revise the bands for presumptive taxes on taxis and buses;
- (j) introduce withholding tax at the rate of twenty percent on reinsurance placed with reinsurers not licensed in the Republic;
- (k) provide clarity on the computation of winnings for income tax purposes;
- (l) provide for the registration of a person with disability with the Zambia Agency for Persons with Disabilities for income tax purposes; and
- (m) provide for matters connected with, or incidental to, the forgoing.

M. D. KABESHA,
Attorney-General

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, 2021, 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

5 (2) This Act shall come into operation on 1st January, 2022.

2. Section 2 (1) of the principal Act is amended by—

Amendment

(a) the deletion of the definition of “commodity royalty” and the substitution therefor of the following:

of section 2

10 “commodity royalty” means an amount paid under royalty financing or a general agreement to a person or partnership, by a person or partnership resident in the Republic that is computed by reference to the production, profit, or to the value of production from a mineral deposit or other natural resource in the Republic, but does not include the repayment of the purchase price for the commodity royalty; and

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(b) the insertion of the following definitions in the appropriate places in alphabetical order:

“income generating real estate means real estate properties that generate a consistent recurring revenue in the form of dividends, interest or cash distribution;

“income real estate investment trust” means a collective investment scheme that invests primarily in income generating real estate;

Act No. 41
of 2016

Securities and Exchange Commission” means the Securities and Exchange Commission established under the Securities Act, 2016;

Act No. 6 of
2012

“Zambia Agency for Persons with Disabilities” means the Zambia Agency for Persons with Disabilities established under the Persons with Disabilities Act, 2012; and

Act No. 11 of
2006
Amendment
of section 6

“Zambia Development Agency” means the Zambia Development Agency established under the Zambia Development Agency Act, 2006.

3. Section 6 of the principal Act is amended by the deletion of the marginal note and the substitution therefor of the following:

Commissioner-General’s functions.

Amendment
of section 15

4. Section 15 (1) of the principal Act is amended by the deletion of the word “charities” and the substitution therefor of the words “public benefit organisations”.

Amendment
of section 29

5. Section 29 of the principal Act is amended by the—

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

(4) Interest on which a deduction is not allowed under this section may be treated as incurred during the next charge year and carried forward for five years, except that interest may be carried forward for ten years by a person carrying on a mining operation or generating electricity.; and

(b) insertion of the following new subsection immediately after subsection (4):

(4A) The interest referred to in subsection (4) shall not exceed thirty percent of the tax earnings before interest, tax, depreciation and amortisation.

6. The principal Act is amended by the insertion of the following new section immediately after section 43A: Insertion of section 43B
- 43B. A deduction shall be allowed in ascertaining gains or profits of a business of any mineral royalty payable and paid for charge year in pursuance of the provisions of the Mines and Minerals Development Act, 2015. Deduction of mineral royalty
Act No. 11 of 2015
7. Section 44 of the principal Act is amended by the deletion of paragraph (p). Amendment of section 44
8. Section 63 (1) of the principal Act is amended by the insertion of the following new paragraph immediately after paragraph (ix): Amendment of section 63
- (x) distributed income of an income real estate investment trust from which tax in respect of that charge year is deducted under section 82A.
9. Section 64A of the principal Act is amended by the insertion of the following new subsection immediately after subsection (3): Amendment of section 64A
- (3A) The Commissioner-General may make a standard assessment requiring a person or partnership letting out property to pay tax on turnover at the rate set out in the Charging Schedule.
10. Section 82A of the principal Act is amended— Amendment of section 82A
- (a) by the deletion of subsection (1) and the substitution therefor of the following:
- (1) Subject to the provisions of this section, a person or partnership making the following payments, irrespective of whether the payment is made outside the Republic, shall, before making any other deduction, deduct tax from the following payments at the rates specified in the Charging Schedule or as the Commissioner-General may direct to give effect to the provisions of any agreement made under section 74 or the provisions of the Second Schedule:
- (a) a management or consultant fee from a source within or 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 other than interest payable to a bank or financial institution licensed under the Banking and Financial Services Act, 2017; Act No. 7 of 2017
- (c) rent from a source within the Republic;

- (d) commissions, other than commissions received by an individual whose income is from employment or office;
 - (e) a public entertainment fee to, or on behalf of, a person or persons in partnership not resident in the Republic; 5
 - (f) commission 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; 10
 - (h) branch profits;
 - (i) a commodity royalty;
 - (j) reinsurance premium to a recipient not registered in the Republic; and 15
 - (k) distributed income of an income real estate investment trust.;
- (b) by the insertion of the following new subsections immediately after subsection (1A):
- (1B) Subsection (1)(c) shall apply to a person or partnership appointed by the Commissioner-General as a withholding agent. 20
 - (1C) Subsection (1)(g) shall not apply to a payment of winnings from a brick and mortar casino.
 - (1D) The distributed income of an income real estate investment trust referred to under subsection(1)(k) shall be the gross rent collected by that income real estate investment minus twenty-five percent of gross collections. 25
 - (1E) The Commissioner-General may determine that the provisions of subsection (1) (a), (b), (c) or (d) do not apply in a particular case and shall, in writing, notify the person or partnership concerned that the provisions of subsection (1)(a), (b), (c), or (d) as applicable, do not apply to that person or partnership to the extent and for the period specified in the notification, except that in the case of subsection (1) (b), the direction to be issued under this subsection shall only be for interest arising from a property linked unit of a property loan stock company.; 30 40

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

5 (2) A person or partnership to whom subsection (1) applies is deemed to have made a payment at the earliest of the following:

(a) the time when payment is made;

(b) the time when income accrues to a person; or

10 (c) the time when income is in any way due to a person or held to that person's order or on that person's behalf.;

(d) by the deletion of subsections (2A), (3), and (4);

(e) by the insertion of the following new subsection immediately after subsection (2):

15 (3) A person or partnership making a payment shall, within fourteen days of the end of the month in which the payment of tax is required to be deducted under subsection (1) was made, submit a return, as prescribed by the Commissioner-General, declaring in the return the amount of the payment, the amount of tax deducted and other particulars that the Commissioner-General may require.;

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25 (f) by the numbering of subsections (5), (6), (7),(8), (9) and (10) as subsections (4), (5), (6), (7), (8) and (9), respectively; and

(g) by the insertion of the following new subsections immediately after subsection (9):

30 (10) This section does not apply to interest payable on a bill of exchange drawn for one hundred and eighty days or less.

35 (11) 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 a payment of interest when the treasury bill is presented for redemption or re-discount.

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(12) For the purposes of this section “winnings” means anything won—

- (a) for lotteries, whether in money or in money’s worth; or
- (b) from gaming or betting in money or money’s worth less the total amount staked by the person; 5

Amendment
of Second
Schedule

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

- (a) in paragraph 5 (1), by the insertion of the following new subparagraph immediately after subparagraph (l):
 - (m) income real estate investment trust approved by the Securities and Exchange Commission.; 10
- (b) by the deletion of paragraph 6B and the substitution therefor of the following:
 - 6B. Despite paragraph 5 (1) or any other provision of this Act, any rent received by a statutory body referred to in that paragraph is subject to tax at the rates set out in the Charging Schedule.; and
- (c) in paragraph 7, by the deletion of the words “and approved fund” and “any approved fund”, wherever the words appear, and the substitution therefor of the words “a 20 fund”.

Amendment
of Ninth
Schedule

12. The Ninth Schedule to the principal Act is amended by the deletion of —

- (a) Part I and the substitution therefor of the following:

PART I 25

TAX ON MOTOR VEHICLES FOR THE CARRIAGE OF PERSONS

<i>Type of vehicle (sitting capacity)</i>	<i>Amount of tax per vehicle (per annum)</i>	
64 seater and above	K12,960	
50 - 63 seater	K10,800	30
36 - 49 seater	K8,640	
22 - 35 seater	K6,480	
18 - 21 seater	K4,320	
12 - 17 seater	K2,160	
Below 12 seater (including taxis)	K1,080;	35
and		

(b) Part III and the substitution therefor of the following:

PART III

TAX ON BETTING AND GAMING

<i>Type of Game</i>	<i>Monthly Tax Rate or Monthly Tax Amount</i>
5 1. Online Casino Live Games	20 percent of gross takings
2. Online Casino Machine Games	35 percent of gross takings
3. Casino Games (Brick and Mortar)	K5,000 per table
4. Lottery Winnings	35 percent of net proceeds
10 5. Betting	25 percent of gross takings
6. Gaming Machines	K500 per machine

NOTES:

1. “Net proceeds” means the gross proceeds less sums paid out for the prizes.

15 2. “Gross takings” means the total amount staked by players less the winnings payable and redemptions by the players.

13. The Tenth Schedule to the principal Act is amended in—

Amendment
of Tenth
Schedule

(a) paragraph 1, by the deletion of item (a) and the substitution therefor of the following:

20 (a) The care or counselling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children;; and

25 (b) paragraph 4, by the deletion of item (b) and the substitution therefor of the following:

30 (b) the provision of higher education by an institution excluding a private institution as defined in terms of the Technical Education, Vocational and Entrepreneurship Training Act, 1998 or a private higher education institution as defined by the Higher Education Act, 2013;.

Act No. 13 of
1998
Act No. 4 of
2013

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

Amendment
of Charging
Schedule

(a) in paragraph 1, by the deletion of subparagraph (1) and the substitution therefor of the following:

35 (1) Subject to subparagraph (2), the tax credit referred to in section 14 (2) which is appropriate is—

(a) zero for an individual for a charge year;
and

- (b) six thousand Kwacha per annum for a person with a disability registered by the Zambia Agency for Persons with Disabilities.;
- (b) in paragraph 2 (1)— 5
- (i) in item (c), by the deletion of the words “forty-eight thousand Kwacha” and the substitution therefor of the words “fifty-four thousand Kwacha”; and
 - (ii) in item (d), by the deletion of the words “forty- 10 eight thousand Kwacha” and the substitution therefor of the words “fifty-four thousand Kwacha”;
- (c) in paragraph 3 (1)—
- (i) in item (b), by the deletion of the word “thirty- 15 five and the substitution therefor of the word “thirty”;
 - (ii) in item (c), by the deletion of the word “thirty-five” and the substitution therefor of the word “thirty”; and 20
 - (iii) by the deletion of items (e) and (f); and
 - (iv) by the renumbering of item (g) as item (e);
- (d) by the deletion of paragraph 4 and the substitution therefor of the following:
4. Subject to the provisions of this Act, tax in 25 respect of the income of a trust, a deceased’s estate or bankrupt’s estate for a charge year shall be charged at the rate of thirty percent per annum.;
- (e) in paragraph 5— 30
- (i) by the deletion of item (e) and the substitution therefor of the following:
 - (e) the maximum of rate tax for turnover received by a person or partnership from the letting of property shall be— 35
 - (i) four percent per annum on turnover as does not exceed eight hundred thousand Kwacha; and
 - (ii) twelve and a half percent per annum on turnover as exceeds 40 eight hundred thousand Kwacha;

- 5 (ii) by the deletion of item (g) and the substitution therefor of the following:
- 10 (g) the maximum rate of tax for the charge years 2021 and 2022 on income received by a person providing accommodation and food services is fifteen percent; and
- 15 (iii) by the insertion of the following new items immediately after item (g):
- 20 (h) the maximum rate of tax for the charge years 2022 and 2023 on income received by a person carrying on the business of manufacturing ceramic products is zero percent; and
- 25 (i) on the income earned from exports of a business enterprise approved by the Zambia Development Agency and carrying on manufacturing activities in a multi-facility economic zone or an industrial park, tax shall be charged at—
- 30 (i) zero percent for a period of ten years starting from the year of commencement of works;
- 35 (ii) half of the standard income tax rate on the business enterprise's profits earned in year eleven to thirteen after the commencement of works; and
- 40 (iii) three quarters of the standard income tax rate on business enterprise's profits earned in year fourteen and fifteen after the commencement of works.;
- (f) in paragraph 6(1), by the insertion of the following new item immediately after item (d):
- (e) the rate of zero percent per annum—
- (i) for dividends paid by a company operating in a multi-facility economic zone or industrial park under the Zambia Development Agency Act, 2006, on profits made on exports; and
- Act No. 11 of 2006

- Act No. 11
of 2006
- (ii) for a period of ten years from the time of commencement of works in the multi-facility economic zone or industrial park under the Zambia Development Agency Act, 2006.; and 5
- (g) in paragraph 7—
- (i) by the deletion of items (i) and (ii) and the substitution therefor of the following:
- (i) tax required to be deducted from a payment of interest under section 82A 10 arising from interest earning accounts held by an individual with a financial service provider registered under the Banking and Financial Services Act, 2017, shall be deducted at the rate of 15 zero percent per annum;
- (ii) tax required to be deducted from a payment of interest under section 82A, other than interest arising from all interest earning accounts held by an 20 individual with a financial service provider registered under the Banking and Financial Services Act, 2017, shall be deducted at the rate of fifteen percent per annum and shall be the final 25 tax;
- (ii) by the deletion of item (ix);
- (iii) by the renumbering of item (x) as item (ix); and
- (iv) by the insertion of the following new item 30 immediately after item (ix):
- (x) tax required to be deducted from the payment of a reinsurance premium to a recipient not registered in the Republic shall be at the rate of twenty percent. 35
- Act No. 7 of
2017
- Act No. 7 of
2017