

## **THE INCOME TAX (AMENDMENT) BILL, 2011**

---

### MEMORANDUM

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

- (a) increase the threshold for exempt income for individuals from twelve million kwacha per annum to twenty-four million kwacha per annum;
- (b) treat hedging as a separate business activity for income tax purpose;
- (c) introduce provisions to deem commissions paid to non-resident persons to have a source within the Republic and thereby taxable at the withholding tax rate of fifteen percent;
- (d) revise the corporate tax rate for banks to thirty-five percent per annum;
- (e) reduce the corporate tax rate on farming income to ten percent from fifteen percent; and
- (f) provide for matters connected with, or incidental to, the foregoing.

M. MALILA,  
*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, 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

5 (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.

10 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—

- 15 (a) any profession, vocation  
or trade;  
(b) any adventure or concern in the nature  
of trade, whether singular or otherwise;  
(c) manufacturing;  
(d) farming; and  
20 (e) hedging.

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

25 “ 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.

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

Amendment  
of section 18

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

N.A.B. 19, 2011

- (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: 5
- (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: 10
- (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. 15
- 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. 20
- 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. 25
- 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— 30
- (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— 35
- (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:

5                    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  
10                    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  
15                    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:

20                    (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;

25                    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  
30                    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

35    10. Section *sixty-three* of the principal Act is amended in paragraph (iv) of the proviso to subsection (1)—                    Amendment of section 63

(a) by the deletion, immediately after the words “ fee royalties ”, of the word “ or ” and the substitution therefor of a comma; and

40                    (b) by the insertion, immediately after the words “ consultancy fee ”, of the words “ or commission ”.

**N.A.B. 19, 2011**

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 therefor of the words “ 30th June”;

(b) by the deletion of subsection (1C) and the substitution 5  
therefor 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 10  
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 15

(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: 20

(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 installments, each one of which shall be equal to one 25  
third of the amount of provisional tax shown in the return and shall be paid as follows:

(a) 1st installment, on 30th June, 2012;

(b) 2nd installment, on 30th September, 2012; and

(c) 3rd installment, on 31st December, 2012.; 30

(d) by the deletion in subsection (2B), of paragraphs (a) and (b) and the substitution therefor of the following:

(a) in any charge year—

(i) be made in installments on the dates specified in subsection (1C); and 35

(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 installments 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:      5

Provided that where an installment payment has been made before an installment of a revised amount is due under this subsection, the amount of that revised installment shall be increased or reduced, as 10 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) ”.      15

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;.      20

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—      25

(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:      30

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      35

(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; 5

(c) rent from a source within the Republic;

(d) commissions, other than commissions received by an individual whose income is from employment or office: 10

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; 15

(e) a public entertainment fee to, or on behalf of, a person or persons in partnership not resident in the Republic; or 20

(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*. 25 30

Amendment  
of section 100

**14.** Section *one hundred* of the principal Act is amended in subsection (1)— 35

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

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

- 5 (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

- 10 (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 subparagraph (1) of paragraph 2 by—

Amendment  
of Charging  
Schedule

- 15 (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  
20 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  
25 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  
30 the substitution therefor of the words “ sixty-  
eight million, four hundred thousand kwacha ”;

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

40 (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 subparagraph (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: 5
- (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 10 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 15
  - (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 20 hundred and fifty million kwacha, at the rate of thirty-five percent per annum; and
    - (d) on so much of the income of any 25 electronic communications network or service licensee 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”. 30
-

