

THE VALUE ADDED TAX (AMENDMENT) BILL, 2019

MEMORANDUM

The object of this Bill is to amend the Value Added Tax Act so as to -

- (a) provide for the mandatory use of electronic fiscal devices;
- (b) provide for the payment of tax by suppliers of electronic services in the Republic;
- (c) require the use of an electronic payment machine as a payment option of sale by a taxable supplier; and
- (d) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

N.A.B. 19, 2019

20th November, 2019

A BILL

ENTITLED

An Act to amend the Value Added Tax Act.

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Value Added Tax (Amendment) Act, 2019, and shall be read as one with the Value Added Tax Act, in this Act referred to as the principal Act.

Title and commencement

Cap. 331

5 (2) This Act shall come into operation on 1st January, 2020.

2. Section 2 of the principal Act is amended by the insertion of the following definitions in the appropriate places in alphabetical order:

Amendment of section 2

10 “electronic commerce” means the buying, selling, advertising or marketing of goods and services using the internet, mobile telecommunication networks and other electronic commerce infrastructure;

15 “electronic service” means a service capable of delivery of data across multiple electronic commerce platforms; and

“electronic payment machine” means a payment terminal used by a taxable supplier to receive a payment.

20 3. Section 7 of the principal Act is amended by the deletion of subsections (3) and (4) and the substitution there for of the following:

Amendment of section 7

(3) A taxable supplier shall issue a tax invoice for the supply of goods and services using an electronic fiscal device.

25 (4) Despite subsection (3), the Commissioner-General may approve the issuance of a tax invoice using an approved computer application or pre-printed tax invoice by a taxable supplier.

	(5) A taxable supplier who fails to issue a tax invoice commits an offence and is liable, on conviction, to a penalty not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.	5
Insertion of section 7A	4. The principal Act is amended by the insertion of the following new section immediately after section 7:	
Record of daily sales	7A. (1) A taxable supplier shall use an electronic fiscal device to record daily sales.	
	(2) Despite subsection (1), the Commissioner-General may approve the use of a document, device or equipment, other than an electronic fiscal device, for a certain category of taxable suppliers.	10
	(3) A taxable supplier that contravenes this section commits an offence and is liable, on conviction, in the case of -	15
	(a) a first offence, to a penalty not exceeding thirty thousand penalty units;	
	(b) a second offence, to a penalty not exceeding sixty thousand penalty units; and	
	(c) a third offence or subsequent offender, to a penalty not exceeding ninety thousand penalty units.	20
Amendment of section 8	5. Section 8 of the principal Act is amended by the—	
	(a) deletion of sub-sections (5), (5A), (6), (7), (8), (8A) and (9) and the substitution therefor of the following:	
	(5) A recipient of an imported service shall pay tax on the importation of a service, where a service is performed, undertaken, or utilised in the Republic or the benefit of the supply is for a recipient in the Republic.	25
	(6) The tax under subsection (5) shall be paid if—	30
	(a) the recipient of the imported service has not paid tax due in the country of exportation; or	
	(b) the supplier who is resident outside the Republic has not appointed a tax agent; and	
	(7) The input tax corresponding to the tax paid under subsection (5) shall be excluded from any claim, deduction or credit under section eighteen.	35

5 (8) A supplier who does not have a registered office or permanent address of business in the Republic shall appoint a person resident in the Republic as a tax agent to act on behalf of that supplier in matters relating to tax.

10 (9) Where the Commissioner General accepts the appointment of a tax agent, referred to in subsection (8), any liability of the taxable supplier under this Act, other than any liability subsisting before the agent's appointment, shall on and from the date of appointment, and without affecting such liability of that supplier, subsist to a like extent and severally against the tax agent until a time as the Commissioner General may determine.

15 (10) The liability of the taxable supplier that extends to a tax agent includes the liability to-

- 20 (a) keep and preserve, or produce records or accounts;
- (b) furnish a tax return;
- (c) pay tax or interest under the Act; and
- (d) comply with any requirement of the Commissioner General in respect of the business.

25 (11) For the purposes of this section, "supply of services" includes the supply of a service that is made by a supplier who is resident or carries on business outside the Republic to a recipient who is resident in the Republic.;

30 **6.** The principal Act is amended by the insertion of the following new sections immediately after section 8:

Insertion
of section 8A
and 8B

35 8A. (1) Tax is payable on the provision of an electronic service in the Republic where that service is performed, undertaken, or utilised in the Republic or the benefit of the supply is for a recipient in the Republic regardless of whether the provider of the service has a place of business in the Republic or the service is paid for outside the Republic.

Electronic
service

	(2) A supplier of an electronic service, a tax agent in the Republic or the person providing an electronic commerce service shall account for the tax on electronic commerce.	
	(3) Where a supplier of an electronic service does not have a registered office or permanent address of business in the Republic, that supplier shall appoint a tax agent who is resident in the Republic for the purpose of accounting for the tax on electronic commerce.	5
	(4) Despite subsections (2) and (3), the Commissioner-General may appoint a tax agent who is resident in the Republic to account for tax on an electronic service.	10
	(5) A supplier of an electronic services whose turnover is below the tax registration threshold, shall account for tax on an electronic service using a taxpayer identification number and a special return prescribed by the Commissioner-General.	15
Value added tax withholding agent	8B. The Commissioner General may appoint a person resident in the Republic as a tax agent to withhold tax on payments made to a taxable supplier of goods and services.	
	7. Section 19 of the principal Act is amended by the—	20
Amendment of section 19	(a) insertion of the following new subsection immediately after subsection (1): (1A) A taxable supplier shall have an electronic payment machine at a point of sale.; and	
	(b) renumbering of subsection (1A) as subsection (1B).	25
Repeal of section 42A	8. The principal Act is amended by the repeal of section 42A.	
Amendment of section 51	9. Section 51(2) of the principal Act is amended in paragraph (h) by the insertion of the words “supply and” immediately after the word “The”.	
