

## THE INCOME TAX (AMENDMENT) BILL, 2012

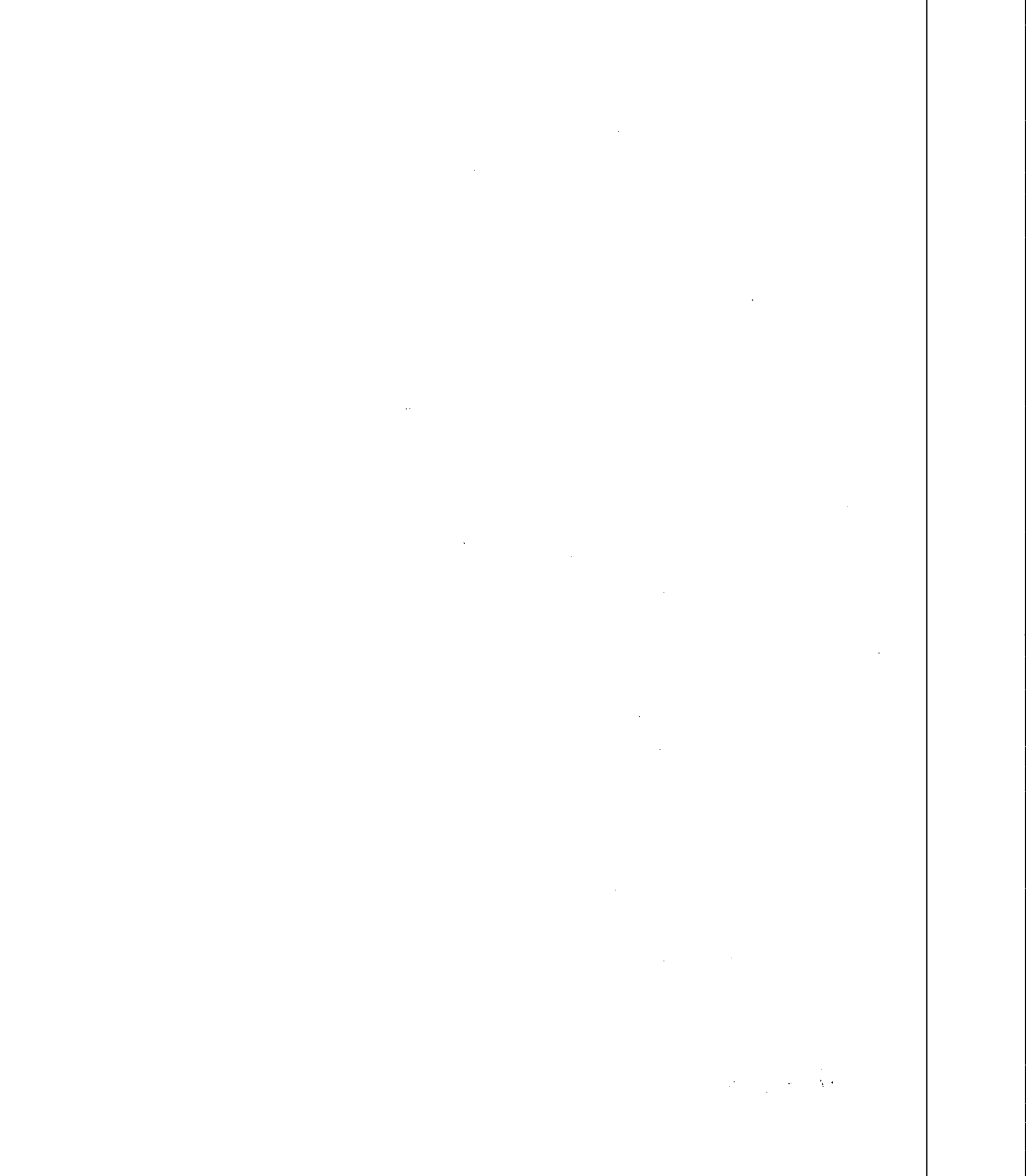
### MEMORANDUM

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

- (a) limit capital deduction claims for expenditure on mining equipment, plant or machinery to the time when such assets have been put into use;
- (b) reduce the capital expenditure deduction for persons carrying out mining operations from one hundred percent to twenty-five percent;
- (c) increase the withholding tax rate on payments to nonresidents of management or consultancy fees and royalties from fifteen percent to twenty percent;
- (d) increase the turnover tax threshold from two hundred million Kwacha to eight hundred million Kwacha per annum;
- (e) subject interest payments on debt made by mining companies to transfer pricing rules;
- (f) remove the withholding tax holiday on payments made by a person developing a multifacility economic zone or an industrial park to any person operating in a multifacility economic zone or an industrial park;
- (g) remove withholding tax on interest earned by individuals from savings or deposit accounts held with financial institutions;
- (h) harmonise the corporate income tax rate at fifteen percent for income earned from the production of organic fertiliser with that from the manufacture of chemical fertiliser;
- (i) amend the payasyouearn tax regime by increasing the income tax free threshold from two million Kwacha per month to two million, two hundred thousand Kwacha per month and adjust the tax bands;
- (j) increase the allowable pension contribution deduction to three million and sixty thousand Kwacha from one million, eight hundred and sixty thousand Kwacha;
- (k) limit the period in which pay-as-you-earn can be claimed to six years from the end of the charge year to which the claim relates; and
- (l) provide for matters connected with, or incidental to, the foregoing.

M. MALILA,  
*Attorney-General*

N.A.B. 10, 2012  
7th November, 2012



# A BILL

ENTITLED

**An Act to amend the Income Tax Act.**

I

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2012, and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

Short title  
and  
commence-  
ment  
Cap 323

5 (2) This Act shall come into operation on 1st January, 2013, and subject to any provisions to the contrary, shall have effect in relation to the charge of tax for the charge year which ends on 31st December, 2013, and in relation to each subsequent charge year.

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

Amendment  
of section 2

(a) the insertion, in the appropriate places, of the following new definitions:

15 “agro-processing” means subjecting any farming produce produced in Zambia to any process which materially changes the farming produce in substance, character or appearance thereby making it a food product, but does not include—

20 (a) processing of that farming produce into alcoholic and non-alcoholic beverages, sugar crystals, flour or maize meal; or

(b) further or additional processing of the farming produce by a third party;

25 “collective investment scheme” means a collective investment scheme registered under the Securities Act; and

Cap. 354

(b) the deletion of the definitions of “person with disability” and “business” and the substitution therefor of the following definitions—

“business” includes:

(a) any profession, vocation or trade; 5

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

(c) manufacturing;

(d) farming;

Act No. 6 of  
2012

(e) agro-processing; and 10

(f) hedging.; and

“person with disability” has the meaning assigned to it in the Persons with Disabilities Act, 2012.

Amendment  
of section 37

3. Section *thirty-seven* of the principal Act is amended by the deletion of the words “one million, eight hundred and sixty thousand Kwacha”, wherever they appear, and the substitution therefor of the words “three million and sixty thousand Kwacha”.

Amendment  
of section  
64A

4. Section *sixty-four A* of the principal Act is amended in subsection (2) by the deletion of the words “two hundred million Kwacha” and the substitution therefor of the words “eight hundred million Kwacha”.

Amendment  
of section 65

5. Section *sixty-five* of the principal Act is amended in subsection (2) by the deletion of the words “eighty-seven”.

Repeal and  
replacement  
of section 74

6. The principal Act is amended by the repeal of section *seventy-four* and the substitution therefor of the following new section:

Double  
taxation  
agreements  
and mutual  
assistance  
in tax  
matters

74. (1) The President may enter into an agreement, which may have retrospective effect, with the Government of any other country or territory—

(a) to prevent, mitigate or discontinue the levying, under the laws of the Republic and of such other country or territory, of taxes in respect of the same tax; or

(b) for the exchange of information on tax matters or for mutual assistance in tax matters with the objective of rendering reciprocal assistance— 35

(i) in the determination of credits and exemptions in respect of Zambian tax and foreign tax;

- (ii) in the provision of data on fraud, civil and criminal tax offences;
- (iii) in the administration and collection of taxes under the tax laws of the Republic and such other country or territory;
- (iv) in the carrying out of tax examinations in Zambia or abroad; and
- (v) in the carrying out of simultaneous or joint tax examinations.

(2) Any information received by a country or territory under an agreement entered into under subsection (1) shall be treated as secret in the same manner as information obtained under the domestic laws of that country or territory and shall be disclosed only to persons or authorities involved in the assessment, collection enforcement, prosecution or determination of appeals in relation to, the taxes under this Act.

(3) Subsection (2) shall not be construed so as to impose on a country or territory the obligation to—

- (a) carry out administrative measures at variance with the laws and administrative practices of that country or territory;
- (b) supply information which is not obtainable under the laws of that country or territory or under the laws of Zambia; or
- (c) supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

(4) The Minister shall lay a copy of an agreement referred to in subsection (1) before Cabinet for approval.

(5) The President shall, as soon as practicable after the conclusion and approval of any agreement under this section, notify the public of the terms of the agreement by statutory instrument, and the agreement shall, from the date of commencement of the statutory instrument, have effect as if enacted under this Act as long as the agreement has the effect of law in the other country or territory.

Amendment  
of section 787. Section *seventy-eight* is amended by—(a) the deletion of subsection (1) and the substitution therefor  
of the following:(1) a person who fails to pay tax in accordance  
with section *seventy-seven*— 5(a) on or before the date on which the tax is  
due;(b) within thirty days of the date of notice of  
assessment from which the tax  
assessed is due; or 10(c) in the case of provisional tax, within  
fourteen days of the date on which that  
payment is due;

is liable to the penalty specified in subsection (2).; and

(b) the insertion, immediately the words  
“each month”, of the words “or part  
thereof”. 15Amendment  
of section 878. Section *eighty-seven* of the principal Act is amended by  
the insertion, immediately after subsection (5), of the following new  
subsection: 20(6) Notwithstanding subsection (1) to (5), where a  
person, pursuant to subsection (1), claims that the pay-as-  
you-earn tax for any charge year has been paid or is deemed  
to have been paid in excess by deduction or otherwise, that  
person shall make the claim, in writing, or by way of return to 25  
the Commissioner General, not later than six years after the  
end of the charge year to which the claim relates.Amendment  
of section  
97B9. Section *ninety-seven B* of the principal Act is amended  
by—

(a) the deletion of subsection (2); and 30

(b) the renumbering of subsection (3) as subsection (2).

Amendment  
of Second  
Schedule10. The Second Schedule to the principal Act is amended—  
(a) in subparagraph (1) of paragraph 5—(i) by the deletion in item (j), after the semi colon, of  
the word “and”; 35(ii) by the deletion in item (k) of the full stop and the  
substitution therefor of a semi colon and the  
word “and”; and(iii) by the insertion, immediately after item (k), of  
the following: 40

- (l) collective investment scheme to the extent to which the income is distributed to participants in the collective investment scheme; and
- 5 (b) in item (aa) of paragraph 7, by the deletion of the words “first declaration” and the substitution therefor of the words “commencement of operations of the approved investment”.
11. The Fifth Schedule to the principal Act is amended—
- 10 (a) in paragraph 4A by the deletion of the word “approved” and the substitution therefor of the words “operating in a multi-facility economic zone or industrial park declared”;
- 15 (b) in subparagraph (5) of paragraph 10 by the insertion, immediately after the word “farming”, of a comma and the words “agro-processing”;and
- (c) in paragraph 22 by the deletion of subparagraph (2) and the substitution therefor of the following:
- 20 (2) The deduction to be allowed for a charge year for a mine shall be twenty-five percent of the original expenditure to the extent that equipment, plant, machinery or anything related to capital expenditure as defined under paragraph 19 of this Part is brought into use in the carrying out of mining operations and
- 25 the expenditure has not already been allowed as a deduction.
12. The Ninth Schedule to the principal Act is amended in Part II by the deletion of the figure “200,000,000” and the substitution therefor of the figure “800,000,000”.
- 30 13. The Charging Schedule to the principal Act is amended—
- (a) in subparagraph (1) of paragraph 2 by—
- 35 (i) the deletion in item (c) of the words “twenty-four million Kwacha” and the substitution therefor of the words “twenty-six million, four hundred thousand Kwacha”;
- 40 (ii) the deletion in item (d) of the words “twenty-four million Kwacha” and “thirty-three million, six hundred thousand Kwacha” and the substitution therefor of the words “twenty-six million, four hundred thousand Kwacha” and “thirty-six million Kwacha”, respectively;

Amendment  
of Fifth  
ScheduleAmendment  
of Ninth  
ScheduleAmendment  
of Charging  
Schedule

- (iii) the deletion in item (e) of the words “thirty-three million, six hundred thousand Kwacha” and “sixty-eight million, four hundred thousand Kwacha” and the substitution therefor of the words “thirty-six million Kwacha” and “seventy five million, eight hundred thousand Kwacha”, respectively; and
- (iv) the deletion in item (f) of the words “sixty-eight million, four hundred thousand Kwacha” and the substitution therefor of the words “seventy ten million, eight hundred thousand Kwacha”;
- (b) in paragraph 5 by—
- (i) the insertion in item (b), immediately after the word “farming”, of the words “and agro-processing”;
- (ii) the insertion in item (d), immediately after the word “from”, of the words “the production of organic fertiliser and”;
- (iii) the deletion of items (e), (f) and (g) and the substitution therefor of the following:
- (e) on the income of a business enterprise operating in a priority sector, multi-facility economic zone or industrial park declared under the Zambia Development Agency Act, 2006, tax shall be charged at—
- (i) zero percent for a period of five years starting from the year of commencement of operations of the approved investment;
- (ii) fifty percent from the sixth to the eighth year after commencement of operations of the approved investment; and
- (iii) seventy-five percent from the ninth to the tenth year;
- (f) the Commissioner-General shall withdraw the incentives granted under item (e) if a business enterprise fails or neglects to fulfil its pledge for employment of citizens of Zambia under the Zambia Development Agency Act, 2006;

5 (g) tax to be deducted from any dividend  
declared by a company operating in a  
priority sector, multi-facility economic  
zone or industrial park declared under  
the Zambia Development Agency Act,  
2006, shall, for a period of five years  
from the date of commencement of  
operations of the approved investment,  
be at the rate of zero percent per  
annum;

10 (c) in paragraph 7, by the deletion of items (i) and (ii) and the  
substitution therefor of the following:

15 (i) tax required to be deducted from any payment of  
interest arising from savings or deposit accounts  
held with financial institutions to an individual  
under section *eighty-two A* shall be deducted  
at the rate of zero percent per annum; and

20 (ii) tax required to be deducted from any payment of  
interest, other than interest arising from savings  
or deposit accounts held with financial  
institutions to an individual under section *eighty-*  
*two A* shall be deducted at the rate of fifteen  
percent per annum and shall be the final tax;  
and

25 (d) by the insertion of the following new items:

30 (iv) tax required to be deducted from the payment of  
a management or consultancy fee deemed  
under section *eighteen* to be from a source  
within the Republic shall be at the rate of twenty  
percent; and

(v) tax required to be deducted from the payment of  
royalties to a non-resident deemed under section  
*eighteen* to be from a source within the Republic  
shall be at the rate of twenty percent.

