

THE INCOME TAX (AMENDMENT) BILL, 2010

MEMORANDUM

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

- (a) increase the tax free income threshold for individuals from nine million, six hundred thousand kwacha per annum to twelve million kwacha per annum;
- (b) increase the person with disability tax credit from one million, nine hundred and twenty thousand kwacha per annum to three million kwacha per annum;
- (c) extend the taxation of income exceeding two hundred and fifty million kwacha at forty percent, to electronic communications networks and services;
- (d) discontinue the deductibility of interest expense on mortgages for individuals;
- (e) increase the exempt portion for income received upon termination of employment from twenty-five million kwacha to thirty-five million kwacha;
- (f) provide for specific penalties for the failure to pay mineral royalty; and
- (g) provide for matters connected with, or incidental to, the foregoing.

M. M. KONDOLO,
Solicitor 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, 2010, 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, 2011, 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 March, 2012, and in relation to each subsequent charge year.

2. Section *two* of the principal Act is amended by the insertion
10 in the appropriate places of the following new definitions:

Amendment
of section 2

“electronic communications network” has the meaning assigned to it in the Information and Communication Technologies Act, 2009;

Act No. 15 of
2009

15 “electronic communications service” has the meaning assigned to it in the Information and Communication Technologies Act, 2009; and

Act No. 15 of
2009

“licensee” has the meaning assigned to it in the Information and Communication Technologies Act, 2009;.

Act No. 15 of
2009

25 3. Section *twenty-one* of the principal Act is amended in subsection (5) by the deletion of the words “twenty-five million kwacha” and the substitution therefor of the words “thirty-five million kwacha”.

Amendment
of section 21

4. The principal Act is amended by the repeal of section *forty-three C*.

Repeal of
section 43C

Amendment
of section 56

5. Section *fifty-six* of the principal Act is amended by—
 (a) the deletion of subsection (2); and
 (b) the re-numbering of subsections (3),(4),(5) and (6) as (2),(3),(4) and (5) respectively.

Amendment
of section
100

6. (1) Section *one hundred* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following subsection:

- (1) A person who negligently, fraudulently or through wilful default—
 (a) fails to furnish a return of income in accordance with the requirements of subsection (2) of section *forty-six*;
 (b) fails to furnish a provisional return of income and tax in accordance with the requirements of section *forty-six A*;
 (c) makes an incorrect return by omitting or understating any income of which the person is required by this Act to make a return;
 (d) gives any incorrect information in relation to any matter affecting the person's own liability to tax or the liability to tax of any other person; or
 (e) submits any incorrect balance sheet, account, or other document;

shall pay a penalty equal to—

- (i) in relation to a person liable to pay mineral royalty under the Mines and Minerals Development Act, 2008—
 (A) in the case of negligence, one point five percent of the gross value or norm value;
 (B) in the case of fraud, four point five percent of the gross value or norm value; and
 (C) in the case of wilful default, three percent of the gross value or norm value;

omitted or understated, in consequence of such failure, incorrect return, information or submission; and

(ii) in any other case—

(A) in the case of negligence, seventeen point five percent of the amount;

(B) in the case of fraud, fifty-two point five percent of the amount; and

(C) in the case of wilful default thirty-five percent of the amount;

of any income omitted or understated, or any expenses overstated, in consequence of such failure, incorrect return, information or submission.

7. The principal Act is amended by the deletion of the words “Direct Taxes Division” wherever they appear and the substitution therefor of the words “Domestic Taxes Division”.

Amendment
of principal
Act

8. The Fifth Schedule of the principal Act is amended in paragraph 22 by the deletion of subparagraph (8) and the substitution therefor of the following new subparagraph:

Amendment
of Fifth
Schedule

(4) A deduction shall be allowed in ascertaining gains or profits of a person involved in mining operations in respect of actual costs incurred by way of restoration and rehabilitation works or amounts paid into the Environmental Protection Fund pursuant to section *one hundred and twenty-two* of the Mines and Minerals Development Act, 2008.

Act No. 7 of
2008

9. The Charging Schedule of the principal Act is amended—

Amendment
of Charging
Schedule

(a) in subparagraph (1) of paragraph 1, by the deletion in clause (b) of the words “one million, nine hundred and twenty thousand kwacha” and the substitution therefor of the words “three million kwacha”;

(b) in subparagraph (1) of paragraph 2 by—

(i) the deletion in clause (c), of the words “nine million, six hundred thousand kwacha” and the substitution therefor of the words “twelve million kwacha”;

(ii) the deletion in clause (d), of the words “nine million, six hundred thousand kwacha” and “sixteen million and twenty thousand kwacha” and the substitution therefor of the words “twelve million kwacha” and “twenty million, eight hundred and twenty thousand kwacha” respectively;

- (iii) the deletion in clause (e), of the words “sixteen million and twenty thousand kwacha” and “forty nine million, two hundred thousand kwacha” and the substitution therefor of the words “twenty million, eight hundred and twenty thousand kwacha” and “fifty million, four hundred thousand kwacha” respectively; and
 - (iv) the deletion in clause (f), of the words “forty-nine million, two hundred thousand kwacha” and the substitution therefor of the words “fifty million, four hundred thousand kwacha”; and
- (c) in paragraph 3 by—
- (i) the insertion immediately before the words “Subject to” of the figure “(1)”; 5
 - (ii) the insertion in clauses (b), (c) and (d), immediately after the word “bank”, of the words “or electronic communications network or service licensee”; 15
 - (iii) the insertion, immediately after clause (e) of the following new clause: 20
 - (f) where the income from mining operations exceeds eight percent of the gross sales at the rate determined in accordance with the following formula: 25
$$Y = 30\% + [a - (ab/c)]$$

Where—

Y= the tax rate to be applied per annum;

a=15%

b=8%; and

c= the percentage ratio of the assessable income to gross sales; 30
 - (iv) the re-numbering of clause (f) as clause (g); and
 - (v) the insertion, immediately after clause (g), of the following new subparagraph: 35
 - (2) Clause (f) of subparagraph (1) shall have effect from 1st April, 2009.