

THE INCOME TAX (AMENDMENT) BILL, 2020

MEMORANDUM

The objects of this Bill are to —

- (a) increase the Pay-As-You-Earn tax free threshold for individuals to forty-eight thousand Kwacha per annum;
- (b) increase the amount allowed as a deduction for employing a person with disability to two thousand Kwacha per annum from one thousand Kwacha per annum;
- (c) increase the tax credit for persons with disabilities to six thousand Kwacha per annum from three thousand Kwacha per annum;
- (d) reduce the income tax rate to fifteen percent on income earned by persons providing accommodation and food services;
- (e) reintroduce a local content allowance for utilisation of selected local raw materials to encourage local content, value addition and agro-processing;
- (f) increase the number of years for claiming development allowance to five years from three years on expenditure incurred on the growing of, rose flower, tea, coffee, banana plant, citrus fruit trees or other similar plants or trees;
- (g) increase the tax rate on betting to twenty-five percent of gross takings from ten percent of gross takings;
- (h) provide for the imposition of withholding tax on payments made by a resident company in the Republic to a non-resident company in respect of royalty financing;
- (i) provide for the mandatory maintenance of books of accounts in Zambian Kwacha; and
- (j) provide for matters connected with, or incidental to, the foregoing

A. MWANSA,
Solicitor-General

N.A.B. 20, 2020
26th November, 2020

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, 2020, 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

(2) This Act shall come into operation on 1st January, 2021.

5 (3) Despite subsection (2), section 81B(4A) shall come into operation on a date that the Minister may appoint by statutory instrument.

2. Section 2 (1) of the principal Act is amended by the insertion of the following definitions in the appropriate places in alphabetical order:

Amendment of section 2

15 “commodity royalty” means an amount paid by a person resident in the Republic to a nonresident 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 payable under royalty financing but excludes the repayment of the purchase price for the commodity royalty;

20 “purchase price” is the amount paid by a nonresident to a person resident in the Republic in return for future payments of commodity royalty; and

“royalty financing” means a financing agreement or arrangement where a purchase price is made and includes an arrangement of a similar nature;

N.A.B. 20, 2020

4 No. of 2020] *Income Tax*

- Amendment of section 6 **3.** Section 6 of the principal Act is amended by the deletion of subsection (2). 5
- Amendment of section 29 **4.** Section 29 of the principal Act is amended by the—
- (a) deletion of subsection (1) and the substitution therefor of the following: 5
- (1) Subject to the other provisions of this Part in ascertaining—
- (a) business gains or profits in a charge year, there shall be deducted the losses and expenditures, other than of a capital nature, incurred in that year wholly and exclusively for the purposes of the business; and 10
- (b) income from a source other than business, only such expenditure, other than expenditure of a capital nature, is allowed as a deduction for any charge year as was incurred wholly and exclusively in the production of the income from that source.; and 15
- (b) insertion of the following new subsections immediately after subsection (1): 20
- (1A) Despite subsection(1), a deduction shall be allowed on the amount payable by way of interest on money borrowed by any person where the CommissionerGeneral is satisfied that the loan or advance was obtained for capital employed wholly and exclusively for business purposes or in the production of income. 25
- (1B) Despite any other provisions of this Act, in ascertaining business gains or profits in a charge year a deduction shall not be allowed on gross interest expense that exceeds thirty percent of the tax earnings before interest, tax, depreciation and amortisation. 30
- Amendment of section 34A **5.** Section 34A (2) of the principal Act is amended by the deletion of the word “three”and the substitution therefor of the word “five”.
- Insertion of new section 34B **6.** The principal Act is amended by the insertion of the following new section immediately after section 34A. 35

- 5 34B. (1) Despite section 29, where a person carrying on agroprocessing or manufacturing incurs in a charge year, expenditure, other than expenditure of a capital nature on the growing or purchase of a prescribed agricultural product, a local content allowance of two percent of the expenditure shall be deducted in ascertaining the gains or profits of that business for the charge year.
- 10 (2) The prescribed agricultural product referred to under subsection (1) shall be grown within the Republic.
- (3) For purposes of this section, the local content allowance shall be claimed in each year that the expenditure is incurred but not exceeding three charge years.
- 15 7. Section 43D(2) of the principal Act is amended by the deletion of the word “one” and the substitution therefor of the word “two”.
8. Section 45B of the principal Act is amended by the insertion
- (a) in columns 1 and 2 of the following:
- | COLUMN 1 | COLUMN 2 |
|-------------------|---|
| 20 INSTITUTION | TYPE OF TRANSACTION |
| regulatory bodies | registration, renewal or issuance of a licence, practicing certificate, permit or similar document; and |
- 25 (b) of the following new subsection immediately after subsection (1):
- (1A) The requirement for a taxpayer identification number by a regulatory body under subsection (1) shall come into operation on a date that the Minister may appoint by statutory instrument.
- 30 9. The principal Act is amended by the repeal of section 48 and the substitution therefor of the following section:
- 35 48. (1) The Commissioner-General may request a person to furnish to the Commissioner General information, whether relating to the affairs of that person or any other person that the CommissionerGeneral determines is necessary for the purposes of this Act.

Local content allowance

Amendment of section 43D

Amendment of section 45B

Repeal and replacement of section 48

Furnishing of information

(2) A record requested under this section shall be provided despite the record being outside the Republic or held by a person who is not a resident of the Republic.

(3) A person who fails to provide records requested by the Commissioner General under subsection (1), including records requested pursuant to Part IX, shall be barred from using that record to challenge an assessment or determination, in a court or tribunal. 5

Amendment
of section 55

10. Section 55 of the principal Act is amended—

(a) by the insertion of the following new subsection immediately after subsection (1): 10

(1A) The books, accounts documents, records and other information referred to in subsection (1) shall be kept in *Zambian Kwacha*.; and

(b) in subsection (4), by the deletion of the words *AA person carrying* and the substitution therefor of the words *15* “Despite subsection (1A), a person carrying”.

Amendment
of section
81B

11. Section 81B of the principal Act is amended by the insertion of the following new subsections, immediately after subsection (4):

(4A) A person, institution or authority empowered by an Act of Parliament to regulate its members shall not register or renew membership or issue a licence, practicing certificate, permit or similar document unless the applicant produces a tax clearance certificate. 20

(4B) Despite subsection (4A), a person, institution or authority under subsection (4A) shall not require a tax clearance certificate from an applicant that falls under the category of a student or an applicant that is not carrying on business relating to the profession. 25

(4C) Despite subsection (4A), the Minister may exempt a member from the requirement under subsection (4A) as prescribed. 30

Amendment
of section
82A

12. Section 82A of the principal Act is amended—

(a) in subsection (1), by the insertion of the following new paragraph immediately after paragraph (h):

(i) a commodity royalty.; 35

(b) by the insertion of the following new subsection immediately after subsection (1):

(1A) The Commissioner General may determine the commodity royalty under subsection (1)(i) where the financing agreement or arrangement does not state what constitutes the repayment of the purchase price.; and

- 5 (c) by the insertion of the following new subsection immediately after subsection (9):

(10) Where a person or partnership fails to deduct or withhold tax as required by this section, section 81 and section 81A, on a payment to a nonresident, that person or
10 partnership shall be liable to been deducted or withheld.

13. Section 97A(1) of the principal Act is amended by the deletion of the definition of “reference price” and the substitution therefor of the following:

Amendment
of section
97A

“reference price” means

- 15 (a) the monthly average London Metal Exchange cash price;
- (b) the monthly average Fastmarkets MB cash price to the extent that the base metal or precious metal price is not quoted on the London Metal Exchange; or
- 20 (c) the monthly average cash price of any other metal exchange market as approved by the CommissionerGeneral to the extent that the base metal price or precious metal price is not quoted on the London Metal Exchange or Fastmarkets MB;.

25 **14.** The Ninth Schedule to the principal Act is amended under Part III in item (4) by the deletion of the words “10 percent of gross takings” and the substitution therefor of the words “25 percent of gross takings”.

Amendment
of Ninth
Schedule

30 **15.** The Charging Schedule to the principal Act is amended in—

Amendment
of Charging
Schedule

- (a) Part I, paragraph 1(1)(b), by the deletion of the words “three thousand Kwacha” and the substitution therefor of the words “six thousand Kwacha”;
- (b) in Part II, paragraph 2(1)—

- (i) in item (c), by the deletion of the words “thirtynine thousand six hundred Kwacha” and the substitution therefor of the words “fortyeight thousand Kwacha”;
- (ii) by the deletion of item (d) and the substitution therefor of the following: 5
- (d) on the balance of so much of an individual’s income as exceeds forty-eight thousand Kwacha but does not exceed fifty-seven thousand six hundred Kwacha at the rate of twenty-five percent per annum; 10
- (iii) by the deletion of item (e) and the substitution therefor of the following:
- (e) on the balance of so much of an individual’s income as exceeds fifty-seven thousand six hundred Kwacha but does not exceed eighty-two thousand eight hundred Kwacha at the rate of thirty percent per annum; and 15 20
- (iv) in item (f), by the deletion of the words “seventyfour thousand four hundred Kwacha” and the substitution therefor of the words “eightytwo thousand eight hundred Kwacha”; and 25
- (c) in Part II, paragraph 5, by the insertion of the following new item immediately after item (f):
- (g) the maximum rate of tax for the charge year 2021 on income received by a person providing accommodation and food services is fifteen percent. 30
- General amendment 16. The principal Act is amended by the deletion of the words “Domestic Taxes Division” wherever the words appear and the substitution therefor of the word “Authority”.