

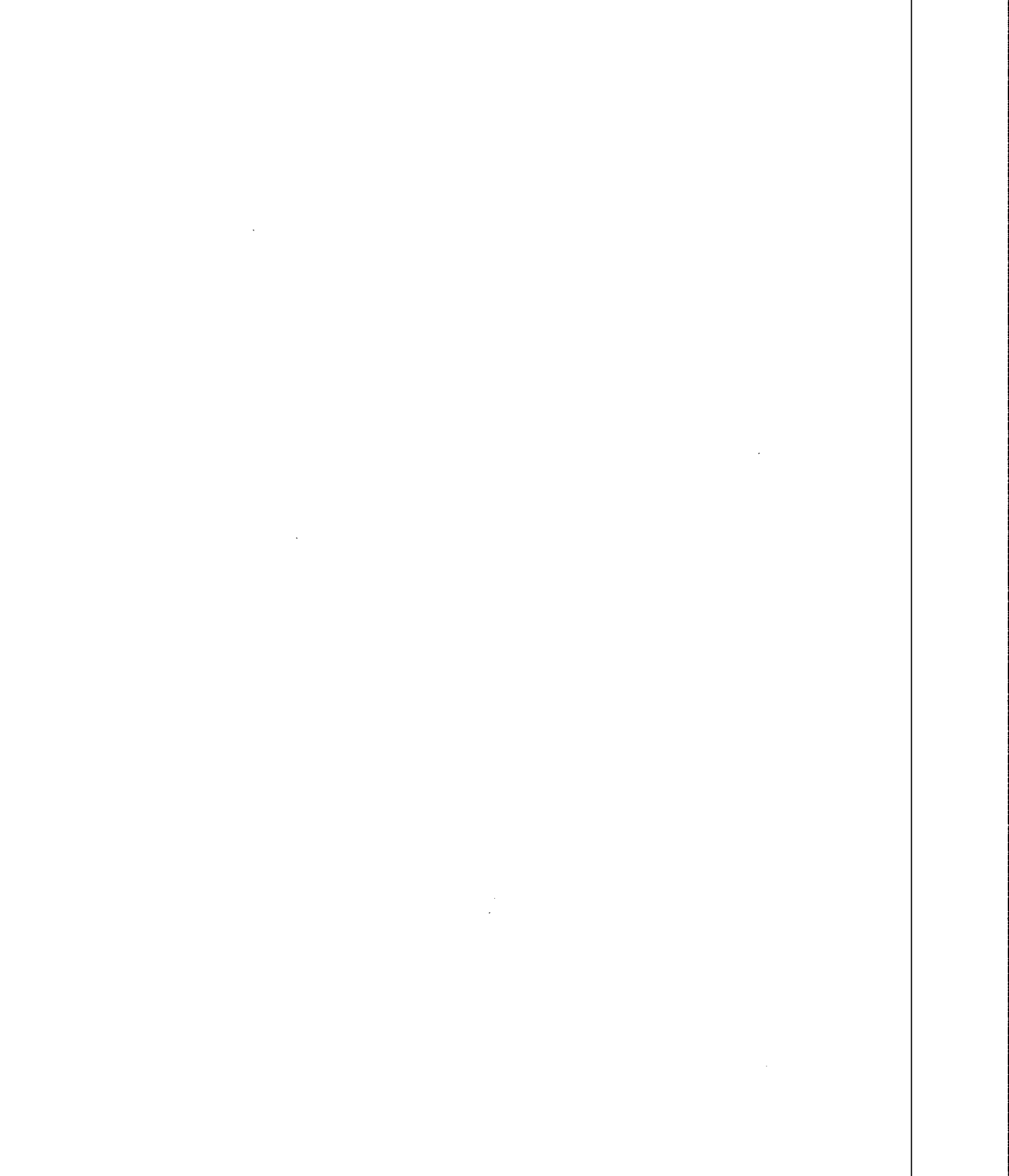
**THE PROPERTY TRANSFER TAX (AMENDMENT)
BILL, 2012**

MEMORANDUM

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

- (a)* introduce property transfer tax at ten percent on the transfer, assignment, encumbrance or other dealing in a mining right or interest;
- (b)* provide for the basis for determining the value for a mining right at the time of its transfer, assignment, encumbrance or other dealing with the mining right or interest;
- (c)* revise the conditions for the approval of the transfer of a mining right or interest by the Minister responsible for mines; and
- (d)* provide for matters connected with, or incidental to, the foregoing.

M. MALILA,
Attorney-General



A BILL

ENTITLED

An Act to amend the Property Transfer Tax Act.

ENACTED by the Parliament of Zambia. Enactment

1. (1) This Act may be cited as the Property Transfer Tax Short title and
5 (Amendment) Act, 2012, and shall be read as one with the Property commencement
Transfer Tax Act, in this Act referred to as the principal Act. Cap. 340

(2) This Act shall come into operation on 1st January, 2013.

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

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

“ group of companies ” means a holding company
together with all its subsidiaries;

“ holding company ” means a company that—

15 (a) holds the majority of the voting rights in
another company;

(b) is a member of another company and
controls a majority of the voting rights on
its own or pursuant to an agreement
entered into with the other members; or

20 (c) is a member of another company and Act No. 7 of
controls, and has the right to appoint or 2008
remove a majority of, the board of
directors in that other company; and

25 “ mining right ” has the meaning assigned to it
in the Mines and Minerals Development Act,
2008; and

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

“ property ” means—

(a) any land in the Republic;

(b) any share issued by a company incorporated in the Republic; or

Act No. 7 of
2008

(c) a mining right issued under the Mines and Minerals Development Act, 2008, or an interest therein.

Amendment of section 4 3. Section *four* of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following: 10

(2) The rate of tax shall be five percent of the realised value of the land or shares and in the case of a mining right or an interest in the mining right, ten percent of the realised value of the mining right. 15

Amendment of section 5

4. Section *five* of the principal Act is amended—

(a) by the insertion immediately after subsection (2) of the following new subsection:

(3) Where the property to be valued is a mining right or an interest in a mining right, the realised value of the mining right or interest shall be the actual price of the mining right or interest at the time of the transfer of that mining right or interest or as determined by the Commissioner-General, whichever is higher.; and (b) by the re-numbering of subsections (3), (4) and (5) as subsections (4), (5) and (6) respectively. 20 25

Amendment of section 9

5. Section *nine* of the principal Act is amended—

(a) by the insertion immediately after subsection (4) of the following new subsection:

(5) Notwithstanding any other written law, the Minister responsible for mines, the Director of Mines or the Director of Geological Survey, as applicable, shall not approve the transfer, assignment, encumbrance or other dealing with a mining right or interest therein, if the transferor fails to pay the tax due in respect of the transfer, assignment, encumbrance or other dealing with a mining right or interest therein, under this Act; and 30 35

(b) by the re-numbering of subsections (5) and (6) as subsections (6) and (7) respectively. 40

6. The principal Act is amended by the insertion, immediately after section *twelve* of the following new section:

Insertion of new section 12A

5 12A. (1) The President may enter into an agreement, which may have retrospective effect, with the Government of any other country or territory

Double taxation agreements and mutual assistance in tax matters

(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 property; or

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

15 (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;

20 (iii) in the administration and collection of taxes under the property transfer 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.

25 (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.

30 (3) Subsection (1) shall not be construed so as to impose on a country or territory the obligation to—

35 (a) carry out administrative measures at variance with the laws and administrative practices of that country or territory;

40 (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.

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(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.

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