

THE VALUE ADDED TAX (AMENDMENT) BILL, 2023

MEMORANDUM

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

- (a) revise the provisions relating to taxation of cross border electronic services;
- (b) provide for the implementation of the electronic invoicing system; and
- (c) provide for matters connected with, or incidental to, the foregoing.

M. D. KABESHA,
Attorney-General

N.A.B. 27, 2023
15th November, 2023

A BILL

ENTITLED

An Act to amend the Value Added Tax

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Value Added Tax (Amendment) Act, 2023, and shall be read as one with the Value Added Tax Act, in this Act referred to as the principal Act.

Short title and commencement

5 (2) This Act shall come into operation on 1st January, 2024.

2. Section 2 of the principal Act is amended by the—

Amendment of section 2

(a) deletion of the definitions of “electronic commerce”, “electronic fiscal device”, “electronic fiscal printer”, “electronic signature device”, “fiscalised electronic register” and “fiscal memory”;

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(b) deletion of the definition “electronic service” and the substitution therefor of the following:

“electronic service” means a service provided or delivered on or through the internet, electronic or digital network; and

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(c) insertion of the following new definitions in the appropriate places in alphabetical order:

“electronic invoicing system” means the core system and any other system which has a fiscal memory capable of generating and storing fiscal information and transmitting production, invoicing and stock data in real time to the

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	Authority, and has the capacity to generate and record data and other reports and includes software applications and web based applications;	
	“cross border electronic services” means electronic services supplied in the Republic by a supplier who is resident or carries on business outside the Republic; and	5
	“imported service” means a service rendered by a supplier who is resident outside the Republic and—	10
	(a) performed or undertaken in the Republic; or	
	(b) the benefit of the service is for a recipient in the Republic.	15
Repeal and replacement of section 8	3. The principal Act is amended by the repeal of section 8 and the substitution therefor of the following:	
Imposition and scope of tax	8. (1) A tax shall be charged, levied, collected and paid, in a prescribed manner, in respect of a—	
	(a) taxable supply of goods or services, other than zero rated supply, made in the Republic in furtherance of a business by a registered supplier eligible for registration under section 28; and	20
	(b) taxable importation of goods or services into the Republic, that takes place on or after the tax commencement day.	25
	(2) The reference in subsection (1) to a supply of goods or services in the Republic includes a reference to a supply that, by the operation of sections 11 or 12 or, of any rule made under those sections, is to be regarded as taking place in the Republic.	30
	(3) Tax on a supply of goods and services is payable by the supplier of the goods or services and, subject to any other provisions made by or under this Act in relation to accounting, is due and payable at the time of supply.	35
	(4) Tax on an importation of goods shall be charged as if the tax were a duty of customs under the Customs and Excise Act, and is payable, accordingly, by the importer of the goods.	40

(5) A recipient of an imported service shall pay tax on the importation of that service.

(6) The tax referred to under subsection (5) shall be paid if the—

- 5 (a) recipient of the imported service has not paid tax due in the country of exportation;
- (b) the supplier who is resident outside the Republic has not appointed a tax agent; or
- 10 (c) services supplied are not under the scope of cross border electronic services.

(7) The input tax corresponding to the tax paid under subsection (5) shall be excluded from a claim, deduction or credit under section 18.

15 (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.

20 (9) A supplier shall apply to the Commissioner-General for registration of the tax agent appointed by that supplier under subsection (8) in a manner determined by the Commissioner-General.

(10) Despite subsection (8), the Commissioner General may, on application by a supplier, exclude a supplier from appointing a tax agent.

25 (11) Where the Commissioner General registers a tax agent appointed under 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
30 the tax agent until a time as the Commissioner General may determine.

(12) The liability of the taxable supplier that extends to a tax agent includes the liability to—

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

	(13) For the purposes of this section, “supply of services” includes the supply of a service that is made by a supplier who is resident outside the Republic to a recipient who is resident in the Republic.	
Repeal of section 8A	4. The principal Act is amended by the repeal of section 8A.	5
Amendment of section 18	5. Section 18 of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following: (3) A supplier shall not deduct, credit, or claim input tax, unless the supplier at the time of lodging the return in which the deduction, credit or claim is made, is in possession of—	10
	(a) a tax invoice issued from a serially numbered invoice book;	
	(b) a tax invoice issued from a computer package authorised by the Commissioner General for the purpose of invoicing taxable supplies;	15
	(c) an invoice issued from the approved invoicing system;	
	(d) an invoice with contents in accordance with the administrative rule made by the Commissioner General; or	20
	(e) in the case of imported goods, import bills of entry and documentary evidence of the payment of tax that the Commissioner- General may, by administrative rule, determine.	25
Amendment of section 42	6. Section 42 of the principal Act is amended by the insertion of the following new subsection immediately after subsection (2): (3) A person carrying out any mining operations may keep books of account, in United States Dollars, of all transactions relating to, connected with, or incidental to, such operations if the Commissioner General is satisfied that not less than seventy five percent of that person’s gross income from mining operations is earned in the form of foreign exchange from outside the Republic.	30
General amendment	7. The principal Act is amended by the deletion of the words “electronic fiscal device” wherever the words appear and the substitution therefor of the words “electronic invoicing system”.	35