

REPORT OF THE COMMITTEE ON ESTIMATES ON THE INCOME TAX (AMENDMENT) BILL, N.A.B NO. 3 OF 2016 FOR THE FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON WEDNESDAY, 23RD SEPTEMBER, 2015

Consisting of:

Mr H H Hamududu, MP (Chairperson); Mr E M Sing'ombe, MP; Mrs I M Mphande, MP; Mr R L Mpundu, MP; Mr G K Mwamba, MP; Mr B M Ntundu, MP; Mr R P Mtolo, MP; Mr P Phiri, MP; and Dr G L Scott, MP.

The composition of your Committee changed following the appointment of Mr R L Mpundu, MP, to a ministerial position. He was replaced by Mr J Shuma, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

Your Committee has the honour to present its Report on the Income Tax (Amendment) Bill, N.A.B No. 3 of 2016, referred to it by the House on 13th April, 2016.

Functions of the Committee

2. In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other order of the House, your Committee is mandated to consider any Bills that may be referred to it by the House.

Meetings of the Committee

3. Your Committee held eight meetings to consider the Income Tax (Amendment) Bill, N.A.B No. 3 of 2016.

Procedure adopted by the Committee

4. In order to acquaint itself with the Bill, your Committee requested written and oral submissions from selected stakeholders.

Object of the Income Tax (Amendment) Bill, N.A.B No. 3 of 2016

5. The object of the Bill is to amend the *Income Tax Act* so as to:

- (a) *remove the variable profit tax on income from mining operations;*
- (b) *reduce the presumptions tax applicable on bus and taxi operators; and*

(c) provide for matters connected with, or incidental, to the foregoing.

Background

6. Your Committee was informed that the *Income Tax Act, Chapter 323 of the Laws of Zambia* is the legislation that governs income tax in Zambia. Income tax is a direct tax that governments impose on financial income generated by all entities within its jurisdiction. Income tax is imposed on profits earned by limited companies, partnerships and self-employed individuals as well as on emoluments earned by employees rather than on goods and services produced. All, unless otherwise exempted by law, profit making organisations have the obligation to pay income tax on their profits. Similarly, all individual citizens in employment have an obligation under the Act to pay tax on their emoluments.

Presumptive Tax

7. Your Committee was informed that presumptive taxes are estimates of tax payable that are used in dealing with incomes that are difficult to tax such as the informal sector. The tax offers the possibility of reducing tax evasion at low cost and broadening the revenue base. It is also a simplified tax which does not require professional accountants to prepare accounts and handle tax matters for the operators who normally are not literate enough to understand taxation or preparation of business records. The tax was introduced in 2003 and was only adjusted in 2015, but was temporarily suspended by the President in the same year 2015. However, the Bill now intended to amend Schedule Nine of the *Income Tax Act* to re-instate the old presumptive tax rates applicable on buses and taxis as indicated in the table below.

Table.1 Presumptive Tax Rates for 2003, 2015 and proposed 2016

Category	2003	2015	2016
	Rate per Annum (K)	Rate per Annum (K)	Rate per Annum (K)
64 Seater and above	7,200.00	14,400.00	7,200.00
50 – 63 Seater	6,000.00	12,000.00	6,000.00
36 – 49 Seater	4,800.00	9,600.00	4,800.00
22 – 35 Seater	3,600.00	7,200.00	3,600.00
18 – 21 Seater	2,400.00	2,800.00	2,400.00
12 – 17 Seater	1,200.00	2,400.00	1,200.00
Below 12 Seater (Including Tax)	600.00	1,200.00	600,00

Source: ZRA

Variable Profit Tax from Mining Operations

8. Your Committee heard that Variable Profit Tax is a tax on profits. The tax is biased to profitability of a firm. In 2008, the Government introduced a mining tax regime which introduced the Windfall Tax and the Variable Profit Tax. This followed the Government's assessment of the mining sector's contribution to the Treasury which reviewed that the country was earning less from mining activities than any comparable country in the world.

In this regard, the Bill seeks to remove the Variable Profit Tax but to maintain the Corporate Income Tax at 30 per cent on mining operations. The Variable Profit Tax is chargeable between zero and fifteen per cent where the income from mining operations exceeds eight per cent of the gross sales. This tax is over and above the thirty per cent Corporate Income Tax for mining operations.

Salient Provisions of the Bill

9. The salient provisions of Income Tax (Amendment) Bill, N.A.B No. 6 of 2016, are as set out hereunder.

Clause 1 – Short title and commencement date

Clause 1 seeks to provide for the short title and the date on which the Bill shall come into force.

Clause 2 - Amendment of Ninth Schedule

Clause 2 seeks to amend the Ninth Schedule by deleting Part I and substituting it with a new Part in order to reduce the Presumptive Tax applicable on bus and taxi operators

Clause 3 - Amendment to Charging Schedule

Clause 3 seeks to provide an amendment to Charging Schedule so as to remove the variance profit tax on income from mining operations.

Submissions by Stakeholders

10. The stakeholders who appeared before your Committee raised some concerns as set out hereunder.

Presumptive Tax

Some stakeholders were of the opinion that the increase in Presumptive Tax rates by 100 per cent in the 2015 National Budget was excessive and grossly reduced the business profit margins of the already constrained buses and taxi operators. They also contended that the increase was not proportionately done because it did not take into consideration the fares applicable in different geographical regions with different demographic characteristics. This technically meant imposing a higher tax for the low income earning regions. They were of the view that the tax should revert to the 2003 rates or completely be abolished more especially for taxies and buses with thirty-six seats and below.

Other stakeholders noted that the Presumptive Tax on buses and taxis had not been increased since 2003 when it was introduced. They contended that the value of the tax had been eroded by inflation and depreciation of the Kwacha in the past ten years. They further argued that because of the said erosion, the collecting cost of the tax outweighs the benefit. In this regard, they were

of the view that for the sector to make meaningful contribution to the Treasury, the tax should not be reduced.

Some stakeholders were of the view that the Government should revert to the old system of administering Presumptive Tax using daily ticketing. They explained that the payment of the tax each time a bus/taxi went into operations on daily basis was more realistic than paying quarterly. They argued that this system easily captured all active operators and left out those that are inactive.

Stakeholders noted the payment of Presumptive Tax through the Zambia Revenue Authority on quarterly basis. However, they were of the view that in order to increase the level of compliance of the tax payers, the Government must consider collecting the Presumptive Tax through the Road Transport and Safe Agency (RTSA) in the same way the Road Tax is collected and to display a disc on the vehicle windscreen.

Variable Profit Tax

Some stakeholders explained that the Variable Profit Tax was introduced in 2008 to, among other things, increase the average effective tax rate for the mining operations which was lower than the lowest comparable country by eight percentage points. It was envisaged that the introduction of windfall and variable taxes was to increase the effective tax rate to about forty-five per cent. However, they submitted that, Variable Profit Tax had not been equitable in the case of Zambia as it had placed a high tax burden on mining companies that operate more efficiently hence affecting the sector. They were of the view that it was appropriate to remove it on the tax schedule.

Stakeholders noted that removal of Profit Variable Tax entails a loss of revenue for the Treasury in the 2016 Budget. They were of the view that to promote stability in tax policy, the Government must consult widely before implementing any tax changes.

Committee's Observations and Recommendations

11. Your Committee from the onset expresses concern about the frequent changes in the tax policy which is causing instability more in especially in the mining sector. It notes the removal of Variable Profit Tax from mining operations. In view of the above, your Committee recommends that there should be wider stakeholder consultations before the tax policy is changed to avoid midstream policy shifts which erodes investor confidence in the sector and adversely affects planning.

Your Committee observes the increase of presumptive tax for bus and taxi operators. Your Committee is of the view that the increase only affects small business operators whose revenue impact on the national budget is negligible. It also observes that the timing for implementing the tax is poor. In light of above, your Committee recommends that presumptive tax should be abolished since it grossly affects small operators whose profit margins are very low.

Conclusion

12. Sir, your Committee concluded its deliberations within its terms of reference. To do this, your Committee had invited a number of stakeholders from whom it sought comments and reactions to the Bill. Your Committee is grateful to the stakeholders who made both oral and written submissions.

It also wishes to thank you, Mr Speaker, for affording it an opportunity to consider the Bill. Your Committee further thanks the Office of the Clerk of the National Assembly for its assistance and advice throughout its deliberations.

We have the honour to be, Sir, your Committee on Estimates appointed to consider the Income Tax (Amendment) Bill, N.A.B No. 3 of 2016.

Mr H H Hamududu, MP
Chairperson

Mr E M Sing'ombe, MP
Member

Mrs I M Mphande, MP
Member

Mr J Shuma, MP
Member

Mr R P Mtolo, MP
Member

Mr G K Mwamba, MP
Member

Mr B M Ntundu, MP
Member

Mr P Phiri, MP
Member

Dr G L Scott, MP
Member

APPENDIX I

List of National Assembly Officers

Mr S C Kawimbe, Principal Clerk of Committees
Ms M K Sampa, Deputy Principal Clerk of Committees
Mr M F Kateshi, Revenue and Expenditure Analyst
Mr S Mtambo, Budget Analyst (Macroeconomics)
Mr F Chikambwe, Assistant Committee Clerk
Mrs B C Chanda, Assistant Committee Clerk
Ms S Kayawa, Stenographer
Mr C Bulaya, Committee Assistant
Mr M Chikome, Parliamentary Messenger

APPENDIX II

Witnesses

Ministry of Justice (Permanent Witness)

Ms M T Sitali, Parliamentary Counsel
Ms O J Sakala, Parliamentary Counsel

Ministry of Finance

Mrs P Kabamba, Permanent Secretary – Budget and Economic Affairs
Mr K Chimfwembe, Acting Director of Budget
Mrs M Chikuba, Principal Budget Analyst

Ministry of Mines and Mines Development

Mr P Chanda, Permanent Secretary
Ms B Mwacheya, Director Planning
Mr M Chibonga, Assistant Director
Mr F Banda, Acting Director
Mr F Chibesakunda, Acting Director
Mr G Ndalama, Director

Zambia Revenue Authority (ZRA)

Mr B Msiska, Commissioner-General
Ms N Mudenda, Commissioner - Corporate Affairs
Mr D Banda, Commissioner of Customs
Ms P Banda, Commissioner of Domestic Taxes
Mr P Phiri, Director LTO
Ms D Bunting, Legal Counsel
Mr E Phiri, Director Research
Mrs N K Katongo, Director - Legal Counsel
Mr L Simbeye, Executive Assistant to the Commissioner General

Zambia Institute of Chartered Accountants (ZICA)

Mr M Phiri, Committee Member
Mr B Mwewa, Technical Manager
Mr N Mwila, Committee Member

Civil Society for Poverty Reduction (CSPR)

Mr T Singongi, Coordinator
Mr M Nkhoma, Coordinator

University of Zambia and Economic Association of Zambia

Mr K S Ndumba, EAZ Executive Director
Dr D Mudenda, EAZ Member
Mr G Sizala, Programme Officer

Zambia Chamber of Mines (CMZ)

Mr N Chishimba, President
Mr M Akakandelwa, Member
Mr C Banda, Member
Mr J Gladston, Member
Ms G Walter, Member
Mr D Nyanga, Head of Taxes
Mr P Kangamba, Tax Manager
Mr S Shula, Member
Mr I Lutumbi, Member

National Economic Advisory Council (NEAC)

Mr W Wake, Executive Director
Dr O Mungule, Principal Policy Analyst

Bus Taxi Owners Association of Zambia

Mr A Daudi, Spokesperson
Mr J Chabala, Provincial Chairperson
Mr D Kampilimba, General, Secretary
Mr C Sichilima, District Secretary
Mr O Yowanu, Member