



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS

ON THE

PROPERTY TRANSFER TAX (AMENDMENT) BILL, N.A.B. NO. 44 OF 2021

FOR THE

FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

Published by the National Assembly of Zambia

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REPORT OF THE COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS ON THE PROPERTY TRANSFER TAX (AMENDMENT) BILL, N.A.B. 44 OF 2021, FOR THE FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

1.0 MEMBERSHIP OF THE COMMITTEE

Mr B Mpundu, MP (Chairperson); Ms S K Sefulo, MP (Vice Chairperson); Mr E Kamondo, MP; Mr D Chisopa, MP; Mr M Mubika MP; Mr R K Chitotela, MP; Mr D Mabumba, MP; Mr G S Sialubalo, MP; and Mr N Simutowe, MP

The Honourable Madam Speaker
National Assembly
Parliament Buildings
LUSAKA

Madam,

The Committee has the honour to present its Report on the consideration of the Property Transfer Tax (Amendment) Bill, N.A.B. No. 44 of 2021.

2.0 MEETINGS OF THE COMMITTEE

The Committee held five meetings to consider the Property Transfer Tax (Amendment) Bill, N.A.B. No. 44 of 2021.

3.0 FUNCTIONS OF THE COMMITTEE

The functions of the Committee are as set out under Standing Order No. 198 (j) of the National Assembly Standing Orders, 2021, pursuant to which the Committee is mandated to study and review Bills that may be referred to it by the House.

4.0 PROCEDURE ADOPTED BY THE COMMITTEE

The Committee requested written submissions from various stakeholders. Stakeholders appeared before the Committee either virtually or physically to orally brief it on the contents of their written memoranda and to clarify issues that arose from the presentations. The institutions that appeared before the Committee are listed at Appendix II of this Report.

5.0 BACKGROUND OF THE BILL

In his Budget address to the House, the honourable Minister of Finance and National Planning stated that in order to broaden the tax base, he was proposing to extend Property Transfer Tax (PTT) on transfers of mineral processing and other mine related licences at the applicable rate of 10 per cent. The Bill was meant to actualise the pronouncements.

6.0 OBJECT OF THE BILL

The object of the Bill was to amend the Property Transfer Tax Act so as to:

- (a) provide for a ten per cent property transfer tax rate on the transfer of a mineral processing licence;
- (b) provide for clarity on the period for the exemption of property transfer tax on indirect transfer of shares;

- (c) permit the filing of a return by proxy where the transferor may be dead, absent from the Republic or cannot be located; and
- (d) provide for matters connected with, or incidental to, the foregoing.

7.0 SPECIFIC PROVISIONS OF THE BILL

The specific provisions of the Bill were as set out below.

Clause 1- Short title and Commencement

The clause provided the citation of the Act once enacted and the commencement date, which shall be 1st January, 2022.

Clause 2 – Amendment of section 2

The clause extended the definition of property to include a mineral processing licence or an interest in the mineral processing licence. Additionally the clause introduced a definition of mineral processing licence as provided under the *Mines and Mineral Development Act, No. 11 of 2015*.

The existing situation was that the transfer of a mining right was subject to property transfer tax while the transfer of a mineral processing license was not. The amendment aimed to subject transfers of mineral processing licences to property transfer tax as they had intrinsic value akin to a mining right.

Clause 3 – Repeal and Replacement of Section 3

The clause sought to repeal and replace section 3 so as to provide clarity on the overall and delegatory functions of the Commissioner General of the Zambia Revenue Authority.

Clause 4 – Amendment of Section 4

The clause sought to amend section 4(1B) so as to provide that the total value of the transferred shares over a period of three years ought to have been three consecutive years. Additionally, the clause sought to include the rate of tax for the transfer of a mineral processing licence at ten percent of the realised value.

Clause 5 – Amendment of Section 6

The clause sought to provide that only public benefit organisations that were exempted in accordance with the Income Tax Act Chapter 323 of the Laws of Zambia were exempt from the payment of Property Transfer Tax.

Clause 6 – Amendment of Section 9

The clause sought to provide which person, other than the transferor, was permitted to render a provisional return, and the circumstances under which that person was permitted to render that provisional return.

8.0 SUBMISSIONS FROM STAKEHOLDERS

Most of the stakeholders who appeared before the Committee generally supported the Property Transfer Tax (Amendment) Bill, N.A.B. No. 44 of 2021. They further submitted that the amendment would help cushion the anticipated loss of revenue that would emanate from the

reintroduction of the deductibility of mineral royalty. Stakeholders also pointed out that since the tax was levied on the seller (who was an outgoing party) it would not affect value addition activities as it did not affect the incoming party, hence opening the investment opportunities.

The Committee was also informed that enactment of the Property Transfer Tax (Amendment) Bill, N.A.B. 44 of 2021, was consistent with the desire by the Government to raise domestic revenue collections in 2022 and beyond.

However, some stakeholders raised some concerns as set out below.

- i) Some stakeholders submitted that the Property Transfer Tax (Amendment) Bill could create a likelihood of a mining entity paying the tax twice if ownership completely changed and consequently its mineral processing licence. The Committee was, therefore, informed that the Bill should include a provision to guide on which property (shares or licence) would be liable for taxation in such a situation.

The Committee was, in this regard, informed that previously, PTT was not being payable on the transfer of a mineral processing license as it was not classified as a mining right under the *Mines and Development Act* and the intention of the Bill was to provide for this. The Zambia Revenue Authority however, had mechanisms in place to ensure that where a transaction involved the same property, the PTT would not be charged twice. It would apply only to either the transfer of shares or transfer of the mineral processing licence.

- ii) The Committee was informed that although there was a lower projection in the collection of the 2022 PTT as compared to 2021, this was attributed to the poor performance of the tax in 2021.

9.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

After thorough interactions with the stakeholders that appeared before the Committee, the Committee is of the view that issues raised by the stakeholders were adequately addressed by the Minister of Finance and National Planning.

The Committee, therefore, resolves to support the enactment of the Property Transfer Tax (Amendment) Bill, N.A.B. No. 44 of 2021.

10.0 CONCLUSION

The Property Transfer Tax (Amendment) Bill, N.A.B. No. 44 of 2021, once enacted will broaden the tax base by extending the charging of property transfer tax to transfer of a mineral processing license or an interest in a mineral processing license. The Committee, therefore, supports the Bill.

The Committee expresses gratitude to all the stakeholders for their oral and written submissions on the Bill. The Committee also thanks the Office of Speaker and the Office Clerk of the National Assembly for the guidance and services rendered to it during the consideration of the Bill.

We have the Honour to be, Madam, the Committee on National Economy, Trade and Labour Matters mandated to consider the Property Transfer Tax(Amendment) Bill, N.A.B. No. 44 of 2021 for the First Session of the Thirteenth National Assembly.

Mr B Mpundu, MP
(Chairperson)

Ms S K Sefulo, MP
(Vice Chairperson)

Mr E Kamondo, MP
(Member)

Mr D Chisopa, MP
(Member)

Mr M Mubika MP
(Member)

Mr R K Chitotela, MP
(Member)

Mr D Mabumba, MP
(Member)

Mr G S Sialubalo, MP
(Member)

Mr N Simutowe, MP
(Member)

Mr B Mpundu, MP
(Chairperson)

December 2021
LUSAKA

APPENDIX I - List of National Assembly Officials

Mr Humphrey Mulenga, Deputy Principal Clerk of Committees (FC)

Mr Francis Nabulyato, Deputy Principal Clerk of Committees (SC)

Mrs Chitalu K Mumba, Senior Committee Clerk (FC)

Mrs Angela M Banda, Senior Committee Clerk (SC)

Mrs Doreen N C Mukwanka, Committee Clerk

Mrs Media H Mweele, Committee Clerk

Mrs Grace Chikwenya, Typist

Mrs Vainess B Tembo, Typist

Mr Daniel Lupiya, Committee Assistant

Mr Muyembi Kantumoya, Parliamentary Messenger

APPENDIX II - List of Witnesses

Ministry of Finance

Ministry of Justice

Ministry of Mines and Minerals Development

Centre for Trade Policy and Development

Zambia Chamber of Commerce and Industry

Zambia Chamber of Mines

Zambia Revenue Authority

Zambia Institute of Policy Analysis and Research