



REPUBLIC OF ZAMBIA

REPORT OF THE PLANNING AND BUDGETING COMMITTEE

ON

VALUE ADDED TAX (AMENDMENT) BILL, N.A.B. NO. 27 OF 2023

FOR THE

THIRD SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY


Printed by the National Assembly of Zambia

FOREWORD

Honourable Madam Speaker, the Planning and Budgeting Committee has the honour to present its Report on the consideration of the Value Added Tax (Amendment) Bill, N.A.B. No. 27 of 2023, for the Third Session of the Thirteenth National Assembly referred to it by the House on Wednesday, 29th November, 2023. The Committee is mandated to consider Money Bills referred to it by the House, as per Standing Order 195(5), of the National Assembly of Zambia Standing Orders, 2021.

The Committee held six meetings to consider the Value Added Tax (Amendment) Bill, N.A.B. No. 27 of 2023. In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from various relevant stakeholders. The list of stakeholders who appeared before the Committee is at Appendix II of the Report. The Report is divided in three Parts. Part I contains the background as well as salient provisions of the Bill. Part II highlights the views of stakeholders, while Part III contains the Committee's Observations and Recommendations.

Madam Speaker, the Committee is grateful to stakeholders who tendered both written and oral submissions. It also wishes to thank you, Madam Speaker, for affording it the opportunity to consider the Value Added Tax (Amendment) Bill, N.A.B. No. 27 of 2023. Gratitude further goes to the Office of the Clerk of the National Assembly for the guidance and services rendered through its deliberations.



Mr Fred C Chaatila, MP
CHAIRPERSON

December, 2023
LUSAKA

TABLE OF CONTENTS

1.0	COMPOSITION OF THE COMMITTEE	1
	PART I.....	1
2.0	BACKGROUND AND SALIENT PROVISIONS OF THE BILL.....	1
2.1	BACKGROUND.....	1
2.2	OBJECT OF THE BILL	1
2.3	SALIENT PROVISIONS OF THE BILL.....	1
	PART II.....	2
3.0	VIEWS OF STAKEHOLDERS	2
4.0	COMMITTEE’S ENGAGEMENT WITH THE MINISTER OF FINANCE AND NATIONAL PLANNING	4
	PART III	4
5.0	COMMITTEE’S OBSERVATIONS AND RECOMMENDATIONS	4
5.0	CONCLUSION.....	5
	APPENDIX I– List of National Assembly Officials	6
	APPENDIX II– List of Witnesses	7

List of Acronyms

VAT Value Added Tax

1.0 COMPOSITION OF THE COMMITTEE

The Committee consisted of Mr Fred C Chaatila, MP (Chairperson); Ms Brenda Nyirenda, MP (Vice-Chairperson); Mr Machila Jamba, MP; Mr Koonwa Simunji, MP; Mr David Mabumba, MP; Mr Kalalwe Mukosa, MP; Mr Jeffrey Mulebwa, MP; Mr Anthony C Mumba, MP; Mr Mayungo Simushi, MP and Mr Mwabashike Nkulukusa, MP.

PART I

2.0 BACKGROUND AND SALIENT PROVISIONS OF THE BILL

2.1 BACKGROUND

The Value Added Tax (VAT) was an indirect tax levied on the sale of goods and services and it was borne by the final consumer. It was a consumption tax which replaced the Sales Tax in 1995. The Minister of Finance and National Planning pronounced a number of Tax measures to be effected in 2024. The Value Added Tax (Amendment) Bill, N.A.B. No. 27 of 2023, sought to amend the *Value Added Tax Act, Chapter 331 of the Laws of Zambia*.

2.2 OBJECT OF THE BILL

The object of the Bill was to amend the Value Added Tax Act so as to:

- (a) revise the provisions relating to 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.

2.3 SALIENT PROVISIONS OF THE BILL

The salient provisions of the Value Added Tax (Amendment) Bill, N.A.B. No. 27 of 2023, were as set out hereunder.

Clause 1– Short title and commencement

The clause provided for the citation and commencement of the Act, once enacted.

Clause 2 –Amendment of section 2

Clause 2 sought to amend section 2 of the principal Act by deleting the definitions “electronic commerce”, “electronic fiscal device”, “electronic fiscal printer”, “electronic signature device”, “fiscalised electronic register” and “fiscal memory”. This clause also sought to amend section 2 of the principal Act by deleting the definition “electronic service” and substituting it with a revised definition. It further sought to amend section 2 of the principal Act, so as to insert new definitions that had been used in the Bill such as “electronic invoicing system”, “cross-border electronic services”, and “imported service”.

Clause 3–Repeal and replacement of section 8

Clause 8 sought to amend the principal Act by repealing and replacing section 8 so as to impose a tax on taxable supplies as well as on taxable importation of goods or services into the Republic of Zambia. The clause further extended the scope of application of VAT to include services supplied by a supplier who was resident outside the Republic to a recipient who was resident in the Republic of Zambia.

Clause 4 – Repeal of section 8A

This clause sought to amend the principal Act by repealing section 8A, so as to repeal the provisions on electronic service.

Clause 5–Amendment of section 18

Clause 5 sought to amend section 18 (3) of the principal Act by the deletion of sub-section (3) and the substitution of a new subsection (3), so as to provide for additional documents that a supplier had to use on deducting, crediting or claiming input tax.

Clause 6– Amendment of section 42

This clause sought to amend section 42 of the principal Act by the insertion of a new subsection (3), immediately after subsection (2), so as to allow a person carrying out mining operations to keep books of account in United States Dollars, where the Commissioner General was satisfied that not less than 75 percent of that person’s gross income from mining operations was earned in the form of foreign exchange from outside the Republic of Zambia.

Clause 7– General Amendment

Clause 7 sought to amend the principal Act by the deletion of the words “electronic fiscal device” wherever the words appeared and the substitution therefor of the words “electronic invoicing system.” This was because the Zambia Revenue Authority planned to no longer use the electronic fiscal device.

PART II

3.0 VIEWS OF STAKEHOLDERS

Most stakeholders who submitted to the Committee supported the Value Added Tax (Amendment) Bill, N.A.B. No. 27 of 2023. This notwithstanding, stakeholders raised some concerns outlined below.

i. Clause 1– Short title and commencement

Stakeholders raised concern that the scale of the proposed changes and the timeline for the necessary implementation after the proposed changes were legislated was not feasible as it would require major system updates.

ii. Clause 2– Amendment of section 2

Stakeholders noted and welcomed the introduction of the definition of “electronic service” as provided in the Bill. The definition, provided a platform for the Government to tax Cross-Border Electronic Services (CBES) provided by non- residents, or foreign services consumed in Zambia. However, they were concerned that the definition of electronic service would not adequately capture a broad range of CBES. In this regard, they proposed that the definition should be amended to read as follows: “electronic service means a service provided or delivered on or through the internet, electronic or digital network that, by its nature was essentially automated and involving minimal human intervention, and had no viability outside the information technology”.

Other stakeholders noted with concern that the proposed new definitions of “imported service and CBES,” were not clear in distinction and hence would result in ambiguous interpretation and application of the law and ultimately affect tax compliance. Therefore, there was need to provide distinct definitions to avoid double taxation and to -make it easy for tax payers to comply. Further, the scope of CBES should be clearly defined to easily isolate such electronic services from the wider imported services.

Some stakeholders expressed concern that although the Bill mentioned what constituted “electronic services” or “CBES,” it did not set out or give guidance on services that were out of the ambit of “electronic services” or “CBES.”

Other stakeholders noted with concern that the proposed definition of “electronic invoicing system and the level of details required from taxpayers in real time, was very daunting for most businesses given the timeline to implement after adoption and business disruptions experienced in other jurisdictions. They further submitted that banks generated a variety of complex products which were taxable. In this regard, they proposed that the banks should not be included in the initial staggered stages of roll-out.

iii. Clause 3– Repeal and replacement of section 8

Stakeholders welcomed the proposed amendment. They stated that complex and burdensome administration procedures, often discouraged taxpayers from claiming legitimate VAT refunds. They were of the view that in order to reduce fraud with respect to VAT refunds, there was need to implement non-cumbersome verification procedures.

iv. Clause 6 Amendment of section 42

Stakeholders welcomed the amendment as it aligned the *Value Added Tax Act, Chapter 331 of the Laws of Zambia* with section 55 (4) of the *Income Tax Act, Chapter 323 of the Laws of Zambia*. However, they were of the view that the Minister of Finance and National Planning, should consider adopting the International Financial Reporting Standards (IFRS) functional currency provisions. They further stated that permitting taxpayers to use their functional currency would be administratively easier. This would also be a revenue generating mechanism

for the Zambia Revenue Authority, as it would bring foreign exchange because most mines would settle their tax obligations in hard currency.

Other stakeholders submitted that considering that mining was Zambia's major economic activity, allowing the major mining firms to keep accounting records in foreign currency would encourage them to also maintain foreign currency accounts which was ultimately bad for the Kwacha. They proposed that the provision should not be included in the Act.

4.0 COMMITTEE'S ENGAGEMENT WITH THE MINISTER OF FINANCE AND NATIONAL PLANNING

The Minister appeared before the Committee to clarify matters that had arisen during the Committee's interaction with stakeholders. The Minister informed the Committee that the 2024 National Budget had a number of pronouncements underpinned in the Money Bills. The focus of the Money Bills was to provide for incentives to expand the productive sectors of the economy and to also raise resources to fund Government's expenditure needs.

The Minister provided clarification on issues set out hereunder.

i. Roll-out of the Electronic Invoicing System

The Minister submitted that the Government was aware about the internet infrastructure challenges. He stated that the implementation of the model would be done on three different basis which included, the use of point of sale machines, mobile phones and the actual software-based system. He further informed the Committee that the pilot roll-out would commence on 15th December, of 2023. With regard to rolling out of the electronic invoicing system vis-à-vis the subsisting electronic fiscal devices, the Committee learnt that the two would be implemented simultaneously.

ii. Strategies to enhance Value Added Tax

The Minister acknowledged that Value Added Tax performed below the target, by 10. 1 per cent in the 2022 financial year, partly due to low compliance by withholding VAT agents. With regard to the strategies to enhance VAT performance, the Minister submitted that the Zambia Revenue Authority had dedicated a unit which would manage collection of VAT from artisanal miners. Additionally, they had stopped the VAT agents from withholding VAT in their transactions as this had been abused in the past.

PART III

5.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Having considered the concerns raised by stakeholders, the Committee makes the observations and recommendations outlined below.

i. Clause 1 – Short title and commencement

The Committee supports the introduction and roll-out of the electronic invoicing system. The Committee further observes that the Government intends to commence the roll-out by 1st

January, 2024. The Committee notes that the scale of the proposed changes and the timelines for the necessary implementation may require most businesses to become mechanised and adopt online platforms. The Committee further observes that most businesses that are domiciled in the rural areas do not have proper internet connectivity.

In light of the foregoing, the Committee recommends that the Government should consider adopting a staggered approach for piloting and testing before mandatory implementation. This will allow most businesses to obtain resources and configure their systems and processes. The Committee further recommends that the Government should enhance internet connectivity across the country to ensure a seamless roll-out and wide inclusion of all business entities.

ii. Clause 3–Repeal and replacement of section 8

While appreciating the repeal and replacement of section 8 of the principal Act to provide for the imposition and scope of VAT, to ensure that non-resident suppliers borne the tax burden on these services, the Committee notes that cumbersome procedures for claiming VAT refunds often lead to VAT frauds and Tax evasion. In light of the foregoing, the Committee recommends that the Government must ensure that non-cumbersome verification procedures are implemented to avoid undue delays.

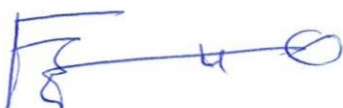
iii. Clause 6- Amendment of section 42

The Committee supports the proposed amendment as it will help reduce risks associated with exchange rate conversion that might result in misrepresentation of financial figures in the books of the mining companies. The Committee further recommends that the Government should consider adopting the International Financial Reporting Standards functional currency provisions. In addition, the Government should also factor in the issue of mining companies having to maintain foreign currency accounts which was ultimately alleged to be bad for the Kwacha.

5.0 CONCLUSION

The Committee notes that the measures in the Value Added Tax (Amendment) Bill, N.A.B. No. 27 of 2023, are aimed at, among other things, providing for the implementation of the electronic invoicing systems. This will enhance tax compliance, enable the Government to expand its revenue base, curb fraudulent VAT refund claims and falsification of invoices by businesses. The Committee is also optimistic that the electronic invoicing system will enable the Zambia Revenue Authority to tackle revenue leakages as it will be able to track all transactional data in real time, thereby reducing tax evasion.

We have the honour to be, Madam Speaker, the Planning and Budgeting Committee mandated to scrutinise the Value Added Tax (Amendment) Bill, N.A.B. No. 27 of 2023, for the Third Session of the Thirteenth National Assembly.



Mr Fred C Chaatila, MP
CHAIRPERSON

December, 2023
LUSAKA

APPENDIX I– List of National Assembly Officials

Mr Stephen Chiwota, Director (Financial Committees)
Mrs Angela M Banda, Acting Deputy Director (Financial Committees)
Ms Chitalu Mulenga, Senior Committee Clerk (FC2)
Mr Elijah I C Chilimboyi, Committee Clerk
Mr Emmanuel Bwalya, Committee Clerk
Mr Aubrey Chilambwe, Senior Budget Analyst
Mr Ferdinand Chikambwe, Senior Budget Analyst-Revenue
Mrs Edna K Zgambo, Senior Budget Analyst
Ms Racheal Kanyumbu, Administrative Assistant
Mr Daniel Lupiya, Committee Assistant
Mr Muyembi Kantumoya, Parliamentary Messenger

APPENDIX II– List of Witnesses

Airtel Networks Zambia PLC
Anti-Corruption Commission
Bank of Zambia
Bankers Association of Zambia
Competition and Consumer Protection Commission
Centre for Trade Policy and Development
Consumer Unity Trust Society
Copperbelt University
Financial Sector Deepening Zambia
Minister of Finance and National Planning
Ministry of Justice
Ministry of Commerce, Trade and Industry
Zambia Revenue Authority
Zambia Information and Communications Technology
Zambia Institute of Chartered Accountants
Zambia Chamber of Commerce and Industry
Zambia Institute for Policy Analysis and Research
Zambia Association of Manufacturers