

**REPORT OF THE COMMITTEE ON ESTIMATES ON THE INCOME TAX (AMENDMENT) BILL, N.A.B. NO 4 OF 2014, FOR THE FOURTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON WEDNESDAY, 24<sup>TH</sup> SEPTEMBER, 2014**

Consisting of:

Mr H H Hamududu, MP (Chairperson); Mr E M Sing'ombe, MP; Ms A C Kansembe, MP; Mr R L Mpundu, MP; Mr G Lubinda, MP; Mr A L Lufuma, MP; Mr L Chabala, MP; Mr R P Mtolo, MP; and Mr P Phiri, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
P O Box 31299  
**LUSAKA**

Sir

Your Committee has the honour to present its Report on the *Income Tax (Amendment) Bill, N.A.B. No. 4 of 2014* referred to it by the House on Friday, 28<sup>th</sup> November, 2014.

**2. Functions of the Committee**

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 Bill that may be referred to it by the House.

**3. Meetings of the Committee**

Your Committee held four (4) meetings to consider the Bill.

**4. Procedure adopted by the Committee**

In order to appreciate the ramifications of the Bill, your Committee sought both written and oral submissions from different stakeholders. The list of witnesses, who gave oral and/or written evidence to your Committee, is at Appendix II of the Report.

**5. Object of the Income Tax (Amendment) Bill, N.A.B. No. 4 of 2014**

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

- a. increase the presumptive tax payable by public service vehicles for carrying passengers;
- b. restrict the deduction of bad and doubtful debts incurred by banks and other financial institutions when determining the taxable income;
- c. remove the requirement for businesses to submit financial statements and other information with the electronically filed annual return;

- d. align tax incentives applicable to manufacturing enterprises located in a rural area, multi-facility economic zone or industrial park to the *Zambia Development Agency Act, 2006*;
- e. align the definition of “minerals” to the definition provided in the *Mines and Minerals Development Act, 2008*;
- f. restructure the tax regime for businesses carrying on mining operations; and
- g. provide for matters connected with, or incidental to, the foregoing.

## **6. Salient provisions of the *Income Tax (Amendment) Bill, N.A.B. No. 4 of 2014***

The following are the salient features of the *Income Tax (Amendment) Bill, N.A.B. No. 4 of 2014*:

### ***Clause 2: Amendment of Section 2***

Clause 2 seeks to amend section 2 of the Principal Act by amending the definitions of “mineral”, and “mining operations”. The intention of this is to align the definition of “minerals” in the *Income Tax Act* to the definition provided in the *Mines and Minerals Development Act*.

The amendment also provides for the definitions of ‘mining operations’, ‘mineral processing’, ‘open cast mining operations’ and ‘underground mining operations’.

### ***Clause 3: Amendment of Section 18***

Clause 3 seeks to amend section 18 of the Principal Act so as to widen the tax base by preventing double non-taxation of income from international carriage where Zambia does not tax such income and the source state, which is supposed to tax such income, may not have provisions to tax the said type of income if their taxation is based on resident basis or where they do not have taxing rights due to provisions under a treaty.

Zambia implements the source rule regime for taxation of income. This means that only income with a source in or deemed to have source in Zambia can be taxed.

Currently, where a business is carried on partly within and partly outside, Zambia receives a share of the profit for business carried out partly outside Zambia. Such profit is deemed to have been received from a source within Zambia and, therefore, taxable in the Republic. However, income earned by a Zambian resident business operating completely outside Zambia is currently not taxable.

### ***Clause 4: Amendment of Section 43A***

Clause 4 seeks to amend section 43A of the Principal Act in subsection (3) by the deletion and substitution of paragraph (b). The amendment seeks to restrict the deduction of bad and doubtful debts incurred by banks and other financial institutions in determining taxable income only to the extent not covered by security or collateral pledged. Currently, deduction of bad and doubtful debt is allowed in determining taxable income.

***Clause 5: Amendment of Section 46***

Clause 5 seeks to amend section 46 of the Principal Act by insertion, immediately after subsection (3), of a new subsection (4). The intended purpose of the amendment is to make electronic filing for returns mandatory. This is meant to increase the uptake of electronically filed returns, reduce both the cost of administration and compliance as well as enhance efficiency.

***Clause 6: Amendment of Section 56***

Clause 6 seeks to amend section 56 of the Principal Act by deletion and substitution of subsection (1). The amendment is intended to remove the requirement for businesses to submit financial statements and other information together with the electronically filed annual return.

Currently, all businesses are required to file annual financial statements together with annual income tax returns. With the introduction of electronic filing of annual tax returns, the requirement to submit physical financial statements will become redundant. Financial statements and supporting documentation will only be submitted when required.

***Clause 7: Amendment of Section 81AA***

Clause 7 seeks to amend the Principal Act by the deletion and substitution of section 81AA. The intention of the amendment is to align the definition of “permanent establishment” with current definitions used in international tax treaties that Zambia is party to.

***Clause 8: Amendment of the Section 82A***

Cause 8 seeks to amend section 82A of the Principal Act by the deletion and substitution of subsection (1) so as to provide for deduction of withholding tax on profits repatriated from Zambia by a branch of a foreign company.

***Clause 9: Amendment of the Second Schedule***

Clause 9 seeks to amend the Second Schedule of the Principal Act in subparagraph 2 of paragraph 5 by the deletion and substitution of paragraph (c). The amendment intends to provide for income tax exemption for all eligible entities or persons such as contractors, consultants and other vendors on income received from the Millennium Challenge Account (MCA) as provided in the *Millennium Challenge Compact Act*. Currently, only MCA-Zambia and the implementing agents, Lusaka City Council and Lusaka Water and Sewerage Company, are covered as exempt under the *Income Tax Act* for purposes of the MCA.

***Clause 10: Amendment of the Fifth Schedule***

Clause 10 seeks to amend the Fifth Schedule of the Principal Act in paragraph 5 by the insertion immediately after the word “farming” of the term “mineral processing”. The intention of the measure is to provide for capital deduction for businesses carrying on mineral processing in line with changes to the mining tax regime.

### ***Clause 11: Amendment of the Ninth Schedule***

Clause 11 seeks to amend the Ninth Schedule in the Principal Act in part 1 by increasing the presumptive tax on public service vehicles.

Currently, individuals or partnerships carrying on the business of providing public passenger transport (buses or mini-buses) pay presumptive tax ranging from K600 to K7,200 per annum based on the sitting capacity of a bus or a mini-bus instead of the standard 35 percent corporate tax based on profit. Presumptive tax was introduced in 2004 to make it easy for bus operators to comply with tax. However, the amounts payable as presumptive tax have never been adjusted from the time they were introduced in 2004 and have, therefore, lost the real value with the passage of time. The amendment is proposed to increase the payable presumptive tax amounts taking into account the passage of time since introduction.

### ***Clause 12: Amendment of the Charging Schedule***

Clause 12 seeks to amend the Charging Schedule in the Principal Act. The amendment is intended to:

- a. align the rates of tax on income from mineral processing, mining operations of industrial minerals and any other mining operations in line with the Government proposal to change the mining tax regime; and
- b. align the rates of tax on income of manufacturing enterprises approved by the Zambia Development Agency (ZDA) operating in a rural area, MFEZ or Industrial Park with the provisions of the priority sectors under the ZDA Act.

The Government has been streamlining the tax incentive structure to limit it to the priority sectors and align it to its priorities to take development to the rural areas. In doing so, the income tax incentives have been restricted to the rural areas, priority sectors in the multi-facility economic zones (MFEZ) and Industrial Parks.

## **7. Concerns Raised by Stakeholders**

While most of the stakeholders appreciated the need to increase the presumptive tax which has not been increased since 2004, they were concerned that the increase was too high. They were worried that the increase might lead to a corresponding increase in transport fares which might adversely affect people's disposable income.

Secondly, some of the witnesses were concerned that restricting the deduction of bad and doubtful debts incurred by banks and other financial institutions in determining taxable income only to the extent not covered by security or collateral pledged, would encourage banks and financial institutions to tighten up collateral requirements for loans. This will compound poor access to finance especially among the Micro, Small and Medium Enterprises (MSMEs).

Furthermore, some witnesses were concerned about the proposed online system of submitting Income Tax returns without accompanying audited financial statements because it was at variance with good practices. They explained that the proposal would render irrelevant all

the efforts that the ZICA had been making in strengthening financial reporting system. They further argued that the proposal was detrimental to fostering collaboration between ZICA and ZRA in enforcing regulatory compliance.

## **8. Committee's Observations and Recommendations**

Your Committee supports all the amendments in the Bill, except the ones highlighted hereunder.

### ***a. Clause 4: Amendment of Section 43A***

Your Committee observes that restricting the deduction of bad and doubtful debts incurred by banks and other financial institutions in determining taxable income only to the extent not covered by security or collateral pledged will encourage banks and financial institutions to enhance collateral requirements for loans. This will compound the already existing problem poor access to finance, particularly by MSME's and women in business.

In light of the above, your Committee urges the Executive to review the proposed amendment.

### ***b. Clause 6: Amendment of Section 56***

Your Committee observes that the proposed online system of submitting Income Tax returns without accompanying audited financial statements is at variance with good practices. Your Committee is concerned that the proposal will render irrelevant all the efforts that have been made so far in strengthening financial reporting system.

In light of the above, your Committee recommends that financial statements should accompany the online submission of income tax returns.

## **9. Conclusion**

Your Committee pays tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It also thanks you, Mr Speaker, for affording it an opportunity to study the Bill. Your Committee also appreciates the services rendered by the Office of the Clerk and her staff during its deliberations.

We have the honour to be, Sir, your Committee on Estimates mandated to consider the *Income Tax (Amendment) Bill, N.A.B. No. 4 of 2014*.

Mr H H Hamududu, MP  
**(Chairperson)**

Mr E M Sing'ombe, MP  
**Member**

Mr L Chabala, MP  
**Member**

Mr R L Mpundu, MP  
**Member**

Mr P Phiri, MP  
**Member**

Mr A L Lufuma, MP  
**Member**

Mr R P Mtolo, MP  
**Member**

Ms A C Kansembe, MP  
**Member**

Mr G Lubinda, MP  
**Member**

## **APPENDIX I**

### **LIST OF OFFICIALS**

#### **National Assembly**

Mr S C Kawimbe, Principal Clerk of Committees  
Ms M K Sampa, Deputy Principal Clerk of Committees  
Mr F Nabulyato, Committee Clerk (FC)  
Mr F M Kateshi, Committee Clerk (SC)  
Mr S Mtambo, Assistant Committee Clerk  
Ms S Kayawa, Typist  
Mr R Mumba, Committee Assistant  
Mr C Bulaya, Committee Assistant

## **APPENDIX II**

### **WITNESSES**

#### **The Zambia Institute of Chartered Accountants (ZICA)**

Ms C Banda, Chairperson-Tax Committee  
Mr M Phiri, Tax Committee Member  
Mr B Mwewa, Technical Manager

#### **Zambia Revenue Authority (ZRA)**

Mr B Msiska, Commissioner-General  
Mr D C Banda, Commissioner-Customs and Excise  
Mr K Mpembamoto, Assistant Director-Research  
Ms P Banda, Commissioner – Domestic Taxes  
Ms B Mundia, Assistant Commissioner of Customs  
Ms D B Goramota, Legal Counsel  
Ms B Muyenga, Commissioner – Finance  
Mr T Milambo, Director – Finance  
Mr C Nshitima, Executive Assistant to the Commissioner-General

#### **Zambia Association of Manufacturers (ZAM)**

Dr B Chunga, President  
Mr M Nsupila, Chief Executive Officer

#### **Zambia Institute of Policy Analysis and Research (ZIPAR)**

Dr P Kabaso, Executive Director  
Ms M Phiri, Associate Researcher  
Mr A Halwazi, Associate Researcher  
Ms T Biluma, Associate Researcher

#### **Ministry of Finance (MoF)**

Ms P Chibonga-Kabamba, Permanent Secretary (Budget and Economic Affairs)  
Mr M Masiye, Director of Budget  
Mr K Chimfwembe, Acting Chief Analyst-Budget  
Mrs M Moonga-Chikuba, Principal Budget Analyst  
Mr I Munjunga, Economist-Budget  
Mr R Kasuba, Economist-Budget