

GOVERNMENT OF ZAMBIA

ACT

No. 17 of 2018

Date of Assent: 23rd December, 2018

An Act to amend the Income Tax Act.

[26th December, 2018]

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2018, and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

Short title
and
commence-
ment
Cap. 323

(2) This Act shall come into operation on 1st January, 2019.

2. Section 29 of the principal Act is amended by the—

Amendment
of section
29

(a) deletion of subsection 1(a) and the substitution therefor of the following:

(a) in ascertaining business gains or profits in a charge year, there shall be deducted the losses and expenditures, other than of a capital nature, incurred in that year wholly and exclusively for the purposes of the business, except that a deduction shall not be allowed on gross interest expense that exceeds thirty percent of the tax earnings before interest, tax, depreciation and amortisation; and

(b) insertion of the following new subsections immediately after subsection (2):

(3) Despite subsection (1) (a), interest, including disallowed interest, is subject to the deduction of withholding tax in accordance with section 82A.

(4) Interest on which a deduction is not allowed under this section may be carried forward and treated as incurred during the next charge year, except that interest shall not—

(a) exceed thirty percent of the tax earnings before interest, tax, depreciation and amortisation; and

(b) be carried forward for more than five years.

(5) Section 97A applies to interest which is allowable as a deduction under this section or which would, but for this section, be allowable as a deduction.

(6) This section does not apply to an institution registered under the Banking and Financial Services Act, 2017, the Pension Scheme Regulation Act, or the Insurance Act, 1997.

(7) For the purposes of this section—

“ gross interest expense ” means the interest paid or accrued by a business in a charge year;

“ interest ” includes interest on all forms of debt, payments that are economically equivalent to interest and expenses incurred in connection with the raising of finance to the extent that the incidental costs of raising finance are not covered by section 44(n); and

“ tax earnings before interest, tax, depreciation and amortisation ” means the sum of taxable income, gross interest expense, depreciation and amortisation.

Act No. 7
of 2017

Cap. 255
Act No. 27
of 1997

3. Section 30A of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following: Amendment
of section
30A

- (2) For the purposes of this section indexed losses shall be computed as follows:

$$[1 + (R2 - R1)/R1] \times \text{loss brought forward}$$

Where: R1 is the Kwacha against the United States dollar at the average exchange rate for the accounting year preceding the accounting year in which the loss is being claimed; and

R2 is the Kwacha against the United States dollar at the average exchange rate for the accounting year in which the loss is being claimed.

- (3) The Kwacha against the United States dollar exchange rate to be used for the purpose of subsection (2) is the average Bank of Zambia mid-rate for the relevant accounting years.

4. Section 33 of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following: Amendment
of section
33

- (3) For the purposes of this section indexed capital allowances shall be computed as follows:

$$[1 + (R2 - R1)/R1] \times \text{capital allowance}$$

Where: R1 is the Kwacha against the United States dollar at the average exchange rate for the accounting year preceding the accounting year in which the capital allowance is being claimed; and

R2 is the Kwacha against the United States dollar at the average exchange rate for the accounting year in which the capital allowance is being claimed.

- (4) The Kwacha against the United States dollar exchange rate to be used for the purpose of subsection (3) is the average Bank of Zambia mid-rate for the relevant accounting years.

- (5) Despite the other provisions of this Act, a capital allowance granted under this section shall be granted for a charge year irrespective of the period covered by the accounts being assessed.

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| Repeal of
section 43B | 5. The principal Act is amended by the repeal of section 43B. |
| Amendment
of section 44 | 6. Section 44 of the principal Act is amended by the repeal of paragraph (o) and the substitution therefor of the following: <ul style="list-style-type: none">(o) provision for a contingent employee cost that is not paid out to the employee in the charge year; and |
| Act. No. 11
of 2015 | (p) mineral royalty payable under the Mines and Minerals Development Act, 2015. |
| Amendment
of section 55 | 7. Section 55 of the principal Act is amended— <ul style="list-style-type: none">(a) in subsection (1), by the deletion of the words “ books and accounts ” and the substitution therefor of the words “ books, accounts, documents, records and other information ”;(b) by the insertion of the following new subsection immediately after subsection (1):<ul style="list-style-type: none">(2) Despite subsection (1), businesses covered by Part IX shall retain books, accounts, documents, records and other information relating to the business for ten years from the date of the last entry in those books, accounts, documents, records and that other information.;(c) by the renumbering of subsections (2), (3) and (4) as subsections (3), (4) and (5) respectively; and(d) by the deletion of the figure “ (3) ” in subsection (5) and the substitution therefor of the figure “ (4) ”. |
| Amendment
of section
64A | 8. Section 64A of the principal Act is amended by the— <ul style="list-style-type: none">(a) insertion of the following new subsections immediately after subsection (2):<ul style="list-style-type: none">(3) The Commissioner-General may make a standard assessment requiring a person carrying on the business of betting and gaming to pay a presumptive tax as set out in Part III of the Ninth Schedule.(4) The Commissioner-General may appoint a person as an agent to withhold turnover tax before making any payments for the supply of goods or services. |