

THE INCOME TAX (AMENDMENT) BILL, 2021

MEMORANDUM

The object of this Bill is to amend the Income Tax Act so as to —

- (a) increase the PayAsYou Earn tax free threshold for individuals to fifty-four thousand Kwacha per annum;
- (b) provide for the deductibility of mineral royalty for corporate income tax assessment purposes;
- (c) reduce the standard corporate income tax rate to thirty percent;
- (d) extend the application of a fifteen percent income tax rate on income earned by persons providing accommodation and food services to 31st December, 2022;
- (e) exempt the payment of withholding tax on interest from interest earning accounts held by individuals with institutions registered under the Banking and Financial Services Act, 2017;
- (f) revise the rental income tax regime;
- (g) suspend the application of income tax to persons carrying on the business of manufacturing ceramic products for the charge years 2022 and 2023;
- (h) extend the period for which disallowed interest deduction can be carried forward by persons carrying on a mining operation or electricity generation;
- (i) revise the bands for presumptive taxes on taxis and buses;
- (j) introduce withholding tax at the rate of twenty percent on reinsurance placed with reinsurers not licensed in the Republic;
- (k) provide clarity on the computation of winnings for income tax purposes;
- (l) provide for the registration of a person with disability with the Zambia Agency for Persons with Disabilities for income tax purposes; and
- (m) provide for matters connected with, or incidental to, the forgoing.

M. D. KABESHA,
Attorney-General

A BILL

ENTITLED

An Act to amend the Income Tax Act.

ENACTED by the Parliament of Zambia

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2021, and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

Short title
and
commencement
Cap.323

5 (2) This Act shall come into operation on 1st January, 2022.

2. Section 2 (1) of the principal Act is amended by—

Amendment

(a) the deletion of the definition of “commodity royalty” and the substitution therefor of the following:

of section 2

10 “commodity royalty” means an amount paid under royalty financing or a general agreement to a person or partnership, by a person or partnership resident in the Republic that is computed by reference to the production, profit, or to the value of production from a mineral deposit or other natural resource in the Republic, but does not include the repayment of the purchase price for the commodity royalty; and

15

2 No. of 2021] *The Income Tax (Amendment)*

(b) the insertion of the following definitions in the appropriate places in alphabetical order:

“income generating real estate means real estate properties that generate a consistent recurring revenue in the form of dividends, interest or cash distribution;

“income real estate investment trust” means a collective investment scheme that invests primarily in income generating real estate;

Act No. 41
of 2016

Securities and Exchange Commission” means the Securities and Exchange Commission established under the Securities Act, 2016;

Act No. 6 of
2012

“Zambia Agency for Persons with Disabilities” means the Zambia Agency for Persons with Disabilities established under the Persons with Disabilities Act, 2012; and

Act No. 11 of
2006
Amendment
of section 6

“Zambia Development Agency” means the Zambia Development Agency established under the Zambia Development Agency Act, 2006.

3. Section 6 of the principal Act is amended by the deletion of the marginal note and the substitution therefor of the following:

Commissioner-General’s functions.

Amendment
of section 15

4. Section 15 (1) of the principal Act is amended by the deletion of the word “charities” and the substitution therefor of the words “public benefit organisations”.

Amendment
of section 29

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

(a) deletion of subsection (4) and the substitution therefor of the following:

(4) Interest on which a deduction is not allowed under this section may be treated as incurred during the next charge year and carried forward for five years, except that interest may be carried forward for ten years by a person carrying on a mining operation or generating electricity.; and

(b) insertion of the following new subsection immediately after subsection (4):

(4A) The interest referred to in subsection (4) shall not exceed thirty percent of the tax earnings before interest, tax, depreciation and amortisation.

6. The principal Act is amended by the insertion of the following new section immediately after section 43A:
- 43B. A deduction shall be allowed in ascertaining gains or profits of a business of any mineral royalty payable and paid for charge year in pursuance of the provisions of the Mines and Minerals Development Act, 2015.
7. Section 44 of the principal Act is amended by the deletion of paragraph (p).
8. Section 63 (1) of the principal Act is amended by the insertion of the following new paragraph immediately after paragraph (ix):
- (x) distributed income of an income real estate investment trust from which tax in respect of that charge year is deducted under section 82A.
9. Section 64A of the principal Act is amended by the insertion of the following new subsection immediately after subsection (3):
- (3A) The Commissioner-General may make a standard assessment requiring a person or partnership letting out property to pay tax on turnover at the rate set out in the Charging Schedule.
10. Section 82A of the principal Act is amended—
- (a) by the deletion of subsection (1) and the substitution therefor of the following:
- (1) Subject to the provisions of this section, a person or partnership making the following payments, irrespective of whether the payment is made outside the Republic, shall, before making any other deduction, deduct tax from the following payments at the rates specified in the Charging Schedule or as the Commissioner-General may direct to give effect to the provisions of any agreement made under section 74 or the provisions of the Second Schedule:
- (a) a management or consultant fee from a source within or deemed under section eighteen to be from a source within the Republic;
- (b) interest and royalties from a source within or deemed under section eighteen to be within the Republic other than interest payable to a bank or financial institution licensed under the Banking and Financial Services Act, 2017;
- (c) rent from a source within the Republic;

Insertion of section 43B

Deduction of mineral royalty

Act No. 11 of 2015

Amendment of section 44

Amendment of section 63

Amendment of section 64A

Amendment of section 82A

Act No. 7 of 2017

- (d) commissions, other than commissions received by an individual whose income is from employment or office;
 - (e) a public entertainment fee to, or on behalf of, a person or persons in partnership not resident in the Republic; 5
 - (f) commission deemed under section eighteen to be from a source within the Republic;
 - (g) winnings from gaming, lotteries and betting other than winnings received by an individual by virtue of employment or office; 10
 - (h) branch profits;
 - (i) a commodity royalty;
 - (j) reinsurance premium to a recipient not registered in the Republic; and 15
 - (k) distributed income of an income real estate investment trust.;
- (b) by the insertion of the following new subsections immediately after subsection (1A):
- (1B) Subsection (1)(c) shall apply to a person or partnership appointed by the Commissioner-General as a withholding agent. 20
 - (1C) Subsection (1)(g) shall not apply to a payment of winnings from a brick and mortar casino.
 - (1D) The distributed income of an income real estate investment trust referred to under subsection(1)(k) shall be the gross rent collected by that income real estate investment minus twenty-five percent of gross collections. 25
 - (1E) The Commissioner-General may determine that the provisions of subsection (1) (a), (b), (c) or (d) do not apply in a particular case and shall, in writing, notify the person or partnership concerned that the provisions of subsection (1)(a), (b), (c), or (d) as applicable, do not apply to that person or partnership to the extent and for the period specified in the notification, except that in the case of subsection (1) (b), the direction to be issued under this subsection shall only be for interest arising from a property linked unit of a property loan stock company.; 30 40