GOVERNMENT OF ZAMBIA

ACT

No. 16 of 2017

Date of Assent: 19th December, 2017

An Act to amend the Income Tax Act.

[22nd December, 2017

ENACTED by the Parliament of Zambia. Enactment

Short title and Commencement

Cap. 323

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2017, and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

(2) This Act shall come into operation on 1st January, 2018.

Amendment of section 2

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

(a) the deletion of the definition of " incapacitated person " and the substitution therefor of the following:

" incapacitated person " means a child or a person who has a mental disability that inhibits that person from exercising independent legal capacity;

(b) the deletion of the definition of " management or consultancy fee " and the substitution therefor of the following:

" management or consultancy fee " means payment in any form, other than an emolument, for or in respect of any—

(a) administrative, consultative, managerial, technical or other service of a like nature; or

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(b) creation, design, development, installation or maintenance of any information technology solution, programme, system, or their combination; and

(c) the deletion of the definition of " taxpayer identification number " and the substitution therefor of the following:

" taxpayer identification number " means a number designated and issued by the Commissioner-General—

(a) to any corporate person or unincorporated body of persons; and

(b) to an individual who has attained the age of 18 years.

Amendment of Section 4

3. Section 4 (3) of the principal Act is amended by the deletion of paragraph *(b)* and the substitution therefor of the following:

(b) the place of effective management of the person's business or affairs is in the Republic for that year.

Amendment of Section 7

4. Section 7 of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following:

(3) The Commissioner-General may appoint a person to collect base tax, presumptive tax, turnover tax or tax on rental income assessed or payable under the provisions of this Act on such terms and conditions as the Minister may, by statutory instrument, prescribe.

Repeal and replacement of section 37

5. The principal Act is amended by the repeal of section 37 and the substitution therefor of the following:

Approved fund deductions

37. (1) A deduction shall be allowed in ascertaining the gains or profits of an employer for a charge year of any amount paid during that charge year by the employer by way of contribution to an approved fund established for the benefit of employees, including an approved fund within the meaning of paragraph (c) of the definition of " approved fund " and a fund approved under paragraph 5 of the Fourth Schedule, if the fund to which the contribution is made continues to be an approved fund for that charge year.

(2) A deduction shall not be allowed under

subsection (1) in respect of any contribution other than a contribution—

(a) which is not a contribution in arrear; or

(b) which is a special lump sum contribution which is allowed to be deducted under and in accordance with subsection (3).

(3) A contribution paid by an employer shall be a special lump sum contribution and shall be treated as a current contribution for a charge year or as current contributions for the charge years in such amount as the Commissioner- General may direct if paid—

(a) in respect of a service rendered to the employer by an employee prior to the date of the employee becoming a member of the approved fund to which the contribution is paid in order that the employee may qualify for benefits under that approved fund in respect of that prior service; or

(b) for any other reason approved by the Commissioner-General.

(3) The deduction to be allowed for a charge year in respect of current contributions to an approved fund other than a fund approved under section 11(1) of the former Act shall not exceed twenty per centum of the emoluments liable to tax received from the employer in that charge year by each employee in respect of whom the contributions are paid.

Amendment of section 45B

6. Section 45B (1) of the principal Act is amended in column 1 by the deletion of the words " financial institution " and the substitution therefor of the words " bank or financial institution ".

Amendment of section 46

7. Section 46 (4) of the principal Act is amended by the insertion of the following paragraph after paragraph (b):

(c) in the case of a turnover tax return, two hundred and fifty penalty units per month or part thereof.

Amendment of section 46A

8. Section 46A (3)(a) of the principal Act is amended by the insertion of the following subparagraph immediately after subparagraph (ii):

(iii) in case where a person registers for income tax after the due date as specified under this subparagraph (I) and (ii), the return shall be due within 90 days of that registration.

Repeal and replacement of section 54

9. The principal Act is amended by the repeal of section 54 and the substitution therefor of the following:

Information as to companies

54. (1) A resident company shall deliver to the Commissioner-General a copy of its memorandum and articles of association, and copies of all amendments thereto, and, if the Commissioner-General so determines, all the particulars relating to the company's affairs and shareholders that the Commissioner-General may in writing require.

(2) A company shall, within one month after another company has become related to it, lodge with the Commissioner-General a notice of that fact together with the particulars identifying the body corporate.

(3) If a company fails to comply with this section, the company, and each officer in default, commits an offence, and is liable, on conviction, to a penalty not exceeding ten thousand penalty units for each day that the failure continues.

Amendment of section 64

10. The principal Act is amended by the deletion of section 64 and the substitution therefor of the following:

Estimated assessments

64. (1) An assessment may be made by the Commissioner-General in any amount according to the best of the Commissioner-General's judgement in respect of any person—

(a) who has not delivered a return as required by this Act, or on whose behalf a return has not been so delivered;

(b) whose return does not satisfy the Commissioner-General;

(c) who the Commissioner-General has reasons to believe is about to leave the Republic;

(d) where the Commissioner-General has reason to believe that the company is to be wound-up or liquidated.

(2) Where the Commissioner-General does not have sufficient information on which to estimate an assessment under subsection (1), the Commissioner-General may when establishing the amount of tax which is due and payable resulting from any subsequent assessment which the Commissioner-General may determine for the same charge year—

(a) assess a base tax of three hundred and sixty-five kwacha in any charge year; and

(b) allow a credit for the amount of any base tax which has been paid in a charge year.

Amendment of section 81

11. Section 81 of the principal Act is amended by the—

(a) deletion in subsection (1) of the words " as if the payment were subject to Part VI, which relates to Pay As You Earn " and the substitution therefor of the words " as prescribed in subsection (1A) "; and

(b) insertion of the following subsection immediately after subsection (1):

(1A) A person to whom subsection (1) applies, shall submit a return and make a payment of tax within fourteen days of the end of the month in which the payment is due.

12. Section 81A of the principal Act is amended by the— Amendment of section 81A

(a) deletion in subsection (1) of the words " as if it were a payment subject to Part VI of the Act " and the substitution therefor of the words " as prescribed in subsection (lA) "; and

(b) insertion of the following subsection immediately after subsection (1):

(1A) A person or partnership to whom subsection (1) applies shall submit a return and make a payment of the tax, within fourteen days of the end of the month in which the payment is due.

13. Section 82A of the principal Act is amended by— Amendment of section 82A

(a) the deletion of subsection (2) and the substitution therefor of the following:

(2) A person or partnership to whom subsection (1) applies is deemed to have made a payment at the earliest of the following:

(a) the time when payment is made;

(b) the time when income accrues to a person; or

(c) the time when income is in any way due to a person or held to that person's order or on their behalf except that

(i) this section shall not apply to interest payable on a bill of exchange drawn for one hundred and eighty days or less;

(ii) the payment of an amount in excess of the original issue price for a treasury bill sold at a discount from face value shall be deemed for the purposes of this section to be payment of interest when the treasury bill is presented for redemption or re-discount;

(iii) 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 to the period specified in the notification;

(iv) in the case of paragraph (b) of subsection (1), the direction to be issued under paragraph *(c)* shall only be for interest arising from a property linked unit of a property loan stock company; and

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

(2A) A person or partnership to whom subsection (1) applies shall, submit a return and make a payment of the tax within fourteen days of the end of the month in which the payment is due.

Repeal of section 92A

14. The principal Act is amended by the repeal of section 92A.

Amendment of Fifth Schedule

15. The Fifth Schedule to the principal Act is amended in paragraph 10 by the—

(a) deletion of subparagraph (6) and substitution therefor of the following:

Act No. 11 of 2006

(6) Despite the other provisions of this Act, a person operating a business in a priority sector declared under the Zambia Development Agency Act, 2006 may claim on a straight line basis, wear and

tear at an accelerated rate, not exceeding 100 percent in respect of any new implement, plant or machinery acquired and used by the business for the purposes of that business.

(b) insertion of the following new subparagraph immediately after subparagraph (6);

(7) Where a business under paragraph (6) uses an accelerated rate, that business shall not use another rate without the consent of the Commissioner-General.

16. The Ninth Schedule to the principal Act is amended by the deletion of Part I and substitution therefor of the following:

Amendment of Ninth Schedule

PRESUMPTIVE TAX

PART I

T*ype of vehicle) capacity*	*Proposed amount of (sitting tax per vehicle (per annum)*
64 seater and above	K10,800
50 - 63 seater	K9,000
36 - 49 seater	K7,200
22 - 35 seater	K5,400
18 - 21 seater	K3,600
12 - 17 seater	K1,800
Below 12 seater (including taxis)	K 900

17. Paragraph 5 of the Charging Schedule to the principal Act is amended by the deletion of subparagraphs *(e)* and *(f)* and the renumbering of subparagraph *(g)* as subparagraph *(e)*.

Amendment of Charging Schedule