THE INCOME TAX (AMENDMENT) BILL, 2018

MEMORANDUM

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

(a) limit the deductibility of interest on debts owed by certain taxpayers to thirty percent of tax earnings before interest, tax, depreciation and amortisation;

(b) revise the Kwacha to United States dollar exchange rate to be used in computing indexed losses and indexed capital allowances for persons carrying out mining operations and keeping their books of accounts in United States dollars;

(c) make mineral royalty non deductible for income tax purposes;

(d) require a business, to which tax avoidance provisions of the Act apply, to retain documents and other information relating to the business= transactions for a period of ten years;

(e) authorise the Commissioner-General to appoint a taxpayer as an agent to withhold turnover tax on payments made to suppliers of goods and services;

(f) introduce a presumptive tax on betting and gaming businesses;

(g) allow an assessment in respect of transfer pricing cases to be made not more than ten years after the end of the charge year to which the assessment relates;

(h) increase the maximum penalty that may be prescribed for non-compliance with transfer pricing regulations to twenty-four million Kwacha from three thousand Kwacha;

(i) introduce penalties for negligent, fraudulent or wilful submission of an incorrect balance sheet, account or other document in respect of the skills development levy under the Skills Development Levy Act, 2016;

(j) clarify that the income of a public benefit organisation is only exempt from income tax if the public benefit organisation is approved for that purpose by the Minister;

(k) revise the current turnover tax regime and introduce a flat rate of four percent on businesses with a turnover of eight hundred thousand Kwacha or below per annum;

(l) dispense with the classification of certain foreign earnings as income originating from the export of non-traditional exports and provide for a maximum tax rate of ten percent on income determined by the Commissioner-General as originating from the export of non-traditional products from farming or agro-processing;

N.A.B. 15, 2018
20th November, 2018

(m) reduce the company income tax rate to fifteen percent from thirty-five percent for companies that add value to copper cathodes;

(n) increase the withholding tax rate on dividends, payment or distribution of branch profits and payment of interest to a non-resident to twenty percent from fifteen percent; and

(o) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

A BILL

ENTITLED

An Act to amend the Income Tax Act.

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, 2018, 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, 2019.

Amendment of section 29

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

(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.

Act No. 7 of 2017

Cap. 255

Act No. 27 of 1997

(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 " includesinterest 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.

Amendment of section 30A

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

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

[1 + (R2 R1)/R1] x 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.

Amendment of section 33

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

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

[1 + (R2 R1)/R1] x 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 irespective of the period covered by the accounts being assessed.