



ZAMBIA REVENUE AUTHORITY

DIRECT TAXES DIVISION

INCOME TAX (AMENDMENT) ACT 2005

PRACTICE NOTE NO. 1/2005

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1.0 GENERAL

This **PRACTICE NOTE** describes the various changes introduced by the Income Tax (Amendment) Act 2005.

The commentary is for general guidance only and is not to be taken as authority in any particular case.

The commentary is not exhaustive and does not, therefore, affect any person's right of appeal on any point concerning their liability to tax, nor does it preclude any discretionary treatment which may be allowed under the Act.

Inquiries may be made at the nearest office of the Zambia Revenue Authority, Direct Taxes Division or Advice Centres, Lusaka and Kitwe.

COMMISSIONER-GENERAL

Amendment Act Clause	I.T.A Section	Subject	Para	Effective Date (01-
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1	1	Title and commencement		01-04-05
2	2	Amends the definition of former Zambia Consolidated Copper Mining Company	3.1	01-04-05
3	21	Increases the exempt portion of terminal benefits	3.2	01-04-05
4	44(m)	Extends the deductibility of copper and cobalt price participation payments to Mopani Copper Mines PLC	3.3	01-04-05
5	46	Increases the penalty units for late submission of income tax returns for both individuals and companies	3.4	01-04-05
6	46(A)	Increases the penalty units for late submission of provisional income tax returns for both individuals and companies	3.5	01-04-05
7	64(A)	Removes income earned from the provision of consultancy services from turnover tax	3.6	01-04-05
8	81B	Provides for the requirement of a tax clearance certificate for retail and wholesale traders	3.7	01-04-05
9(a)	Charging Sch.	Increases the tax credit for persons with disabilities	3.8	01-04-05
9(b)(i)	Charging Sch	Provides for the taxation of employers contribution from a defined benefit fund or scheme	3.8	01-04-05
9(b)(ii)	Charging Sch.	Increases the threshold of exempt income	3.8	01-04-05
9(b)(iii)	Charging Sch.	Restructures the tax bands and rates	3.8	01-04-05

Other changes

P.A.Y.E Regulation	Regulation 23	Increase the penalty units for late submission of employer annual returns	3.9	01-04-05
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Property transfer Tax Act	Sec 2	Amends the definition of Registrar	3.10	01-04-05
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3.0 COMMENTARY

3.1 SECTION 2: DEFINITION

The amendment broadens the definition of “ Former Zambia Consolidated Copper Mining Company” to encompass successor buyers of privatised mines or any new mines involved in copper and cobalt mining operations. Therefore, all copper and cobalt mining companies shall be entitled to the following tax incentives:

- | | | |
|------|------------------|------|
| i. | Company tax rate | 25% |
| ii. | Dividends | 0% |
| iii. | Interest | 0% |
| iv. | Royalties | 0.6% |
| v. | Management fees | 0% |

3.2 SECTION 21: INCREASE THE EXEMPT LIMIT OF TERMINAL BENEFITS FROM K5,000,000 TO K10,000,000.

The amendment raises the exemption limit of terminal benefits from K5,000,000 to K10,000,000. The balance continues to be taxed at 10%.

Terminal benefits include compensation for loss of office or employment, redundancy or early retirement, accrued service bonus, repatriation and severance pay paid as part of a package.

However, terminal benefits do not include salary; leave pay, and salary in lieu of notice.

3.3 SECTION 44 (m): EXTEND THE DEDUCTIBILITY OF COPPER AND COBALT PRICE PARTICIPATION PAYMENTS TO MOPANI COPPER MINES PLC

Section 44(m) prohibits a deduction of copper and cobalt price participation payments except for those made by Konkola Copper Mines PLC

This amendment extends the deduction to Mopani Copper Mines PLC.

3.4 SECTION 46: INCREASE THE PENALTY UNITS FOR LATE SUBMISSION OF INCOME TAX RETURNS FOR BOTH INDIVIDUALS AND COMPANIES

The penalties for late submissions of returns have been increased as follows:

(a) For individuals-

From 170 penalty units (K30,600) to 1000 penalty units (K180,000) per month or part thereof

(b) For companies-

From 340 penalty units (K61,200) to 2000 penalty units (K360,000) per month or part thereof

N.B one penalty unit is equivalent to K180.

3.5 SECTION 46 A: INCREASE THE PENALTY UNITS FOR LATE SUBMISSION OF PROVISIONAL INCOME TAX RETURNS FOR BOTH INDIVIDUALS AND COMPANIES

The penalties for late submissions of provisional income tax returns have been increased as follows:

- (b) For individuals-
From 170 penalty units (K30,600) to 1000 penalty units (K180,000) per month or part thereof
- (b) For companies-
From 340 penalty units (K61,200) to 2000 penalty units (K360,000) per month or part thereof

3.6 SECTION 64A: REMOVE INCOME EARNED FROM THE PROVISION OF CONSULTANCY SERVICES FROM TURNOVER TAX

The amendment excludes from turnover tax income earned by any person carrying on consultancy business.

Consultancy business includes the provision of any managerial, administrative, technical or consultative service or any service of like nature.

For more information on Turnover tax, please refer to Practice Note on Turnover Tax.

3.7 SECTION 81B: PROVIDE FOR THE REQUIREMENT OF TAX CLEARANCE CERTIFICATE FOR RETAIL AND WHOLESALE TRADERS

- (a) Subsection (2) reintroduces the requirement that institutions that issue trading licences should not do so, unless the applicant produces a tax clearance certificate issued by the Commissioner-General
This requirement applies only to trading licences.
- (b) Subsection (4) This amendment prohibits persons, institutions, organisations or associations from transacting with any supplier of goods or services who have no tax clearance certificate.

3.8 CHARGING SCHEDULE:

(a) Clause (b) of subparagraph (1) of Para (1)

The amendment has increased the tax credit from K18,000 to K36,000 per annum for persons with disabilities.

This means that a person with disability, who earns up to K290,000 per month or K3,480,000 per annum will not pay Income Tax.

(b) Clause (a) of subparagraph (1) of paragraph (2)

The proviso to paragraph 2(1)(a) gives powers to the Commissioner-General to tax, under the PAYE scheme, the refunded employer's contribution from both a defined contribution fund or scheme and a defined benefit scheme or fund.

(c) Clause (c), (d), (e) and (f) of subparagraph 1 of Paragraph 2

The amendment increases the annual tax-free income threshold for individuals from K3,120,000 to K 3,360,000.

The income of an individual will now be taxed as follows:

Income Bands	Rates
First K3,360,000	@ 0%
Between K3,360,001 and up to K12,000,000	@ 30%
Between K12,000,001 and up to K60,000,000	@ 35%
Above K60,000,000	@ 37.5%

This means that a person, who earns up to K280,000 per month or K3,360,000 per annum will not pay Income Tax.

3.9 THE INCOME TAX (P.A.Y.E)(AMEDMENT) REGULATIONS,2005

Regulation 23

The penalties for late submissions of employer annual returns have been increased as follows:

- (a) In Subregulation 4(a) where the employer is an individual-
From 170 penalty units (K30,600) to 1000 penalty units (K180,000) per month or part thereof
- (b) In Subregulation 4(b) where the employer is not an individual-
From 340 penalty units (K61,200) to 2000 penalty units (K360,000) per month or part thereof

3.10 THE PROPERTY TRANSFER TAX

Section 2

The definition of Registrar has been amended to include the Registrar of Companies.

4.0 OTHER MATTERS

4.1 TAXATION OF BENEFITS

(i) Payment of employees' bills

Where an employer, discharges the liability of an employee by paying, his or her rent, electricity, telephones, water bills, school fees or association and club membership fees etc., the employer is required to add such payments to the employee's emoluments and deduct tax under PAYE.

(ii) Benefits that cannot be converted into Cash

Benefits, which cannot be converted into cash, are not taxable on employees. However, no deduction in respect of the cost of providing the benefit may be claimed by the employer (section 44(L)).

- (a) In the case of free residential accommodation provided by an employer in a house owned or leased by the employer, the cost to be disallowed in the employer's tax computation is 30% of the taxable income paid to the employee.

Payments for utilities such as electricity, telephones, water bills, security and similar payments are not included in the meaning of free residential accommodation.

- (b) In the case of the provision of motor vehicles to employees on a personal-to-holder basis, the benefit to be disallowed in the employer's tax computation is as follows:

- (i) Luxury cars (2800cc and above)
K20,000,000 per annum.

Other cars

- (ii) (above 1800cc and below 2800cc):
K15,000,000 per annum.

- (iii) (below 1800 cc)
K9,000,000 per annum

N.B. A personal - to - holder vehicle means a vehicle provided for an employee's personal use and usually involves payment by the employer of all the expenses associated with running and maintaining the vehicle.

(iii) Cash Benefits paid in the form of Allowances.

All cash benefits paid in the form of allowances are taxable on the employee under PAYE.

Examples of such cash benefits are:

- Education allowance;
- Housing allowance;
- Transport allowance
- Domestic Utility allowances e.g. for electricity, telephone, and water.
- Commuted car allowance
- Settling in allowance

4.2 EMOLUMENTS THAT ARE NOT SUBJECT TO PAYE

The following emoluments are exempt or otherwise not chargeable to income tax and, consequently, need not be included in the chargeable emoluments from which PAYE tax is to be deducted:

(i) Ex – Gratia Payments:

A voluntary, non – contractual, non – obligatory payment made by an employer to the spouse, child or dependant of a deceased employee is exempt (ITA Para. 7 (t), 2nd Schedule).

(ii) Labour Day Awards:

Labour Day awards paid to employees either in cash or kind are regarded by ZRA as non – taxable.

(iii) Medical Expenses:

Medical expenses paid or incurred by an employer on behalf of an employee or refunds of actual medical expenses incurred by an employee are exempt (S.I No. 104 of 1996).

(iv) Funeral Expenses:

Funeral expenses paid or incurred by an employer on behalf of an employee are exempt (S.I. No. 104 of 1996).

(v) Sitting Allowances for Councillors:

Payments by Local Authorities to councillors as Sitting Allowances are exempt (ITA 2nd Schedule Para. 7(s)).

4.3 TAX TREATMENT OF EXPENSES INCURRED ON ENTERTAINMENT, HOSPITALITY AND GIFTS

Expenses incurred in entertainment, hospitality and gifts are not allowable, subject to the following exceptions:

- a) Where the business is one whose purpose is to provide entertainment or hospitality, e.g. hotels, restaurants, cinemas and theatres, the cost of providing these services is allowable.
- b) Where the entertainment is provided free with the purpose of obtaining publicity to the general public, e.g. free seats for critics at a cinema, this is allowable.
- c) Where an employer provides entertainment or hospitality for employees, e.g. meals, accommodation etc. on business trips or a Christmas party for employees, this is allowable.
- d) Where a person gives gifts which bear an advertisement for the donor, e.g. calendars, pens, ashtrays, spirits, food, etc. and the cost of the gift to any one person does not exceed K25,000, this is allowable. Costs in excess of K25,000 to the same person would be disallowable.
- e) Employees receiving entertainment allowances would be chargeable and the amount would be disallowable to the employer. Where an employer defrays entertainment expenses directly, the cost would be disallowable to the employer but there would be no charge on the employee unless the normal rules as to benefits apply.

4.4 TAX TREATMENT OF CANTEEN EXPENSES, REFRESHMENTS, ETC.

Where the employer incurs expenditure on the provision of refreshments or canteen meals or any other meals (except on business trips) to employees, the benefit arises in the hands of the employees.

As the benefit cannot be converted into money's worth, it is not taxable on the employee.

Under the provisions of Section 44(L) of the Income Tax Act, the whole expenditure on refreshments, canteen meals, etc. is disallowable on the employer.

4.5 PAYMENTS ON CESSATION OF EMPLOYMENT

Payments on cessation of employment fall into the following categories;

- (a) Payments made on dismissal or resignation;
- (b) Payments made to an employee at the end of a contract;
- (c) Payments made to an employee on being made redundant;
- (d) Payments made to an employee on retirement; and
- (e) Payments made on termination of employment due to death.

(a) DISMISSAL OR RESIGNATION OF AN EMPLOYEE

Where an employee has been dismissed or resigns, he may receive the following payments:

- Emolument (i.e. salary, wage, overtime, leave pay, commission, bonus, fee etc.)
- Cash in lieu of leave (leave days due but not taken)
- Salary in lieu of notice
- Severance pay

These payments are taxable by reference to the PAYE Tax Tables applicable for the month in which the payment is made and do not qualify for the K10 million exemption under Section 21(5) of the Income Tax Act.

(b) EXPIRY OF EMPLOYMENT CONTRACT

Where employment ceases on the expiry of a contract, the following payments are usually made to the employee:

- (i) Final Salary
- (ii) Gratuity
- (iii) Leave pay
- (iv) Repatriation pay

These payments are taxed as follows:

- Leave pay, repatriation pay and the salary are added and taxed under PAYE with respect to the tax table applicable for the month in which payment is made.
- Gratuity paid is taxed at the graduated rates of tax, as follows;
 - (a) Qualifying gratuity is taxed at the graduated rates of tax,

Qualifying gratuity Bands	Rates
First K3,360,000	@ 0%
Between K3,360,001 and up to K12,000,000	@ 30%
Between K12,000,001 and up to K60,000,000	@ 35%
Above K60,000,000	@ 37.5%

- (b) Non - qualifying gratuity is added to the salary for the month in which it is paid and taxed with reference to the appropriate P.A.Y.E tax table.

(For more details, refer to our leaflet No. 3 on Taxation of Gratuities under PAYE.)

(c) REDUNDANCY /RETRENCHMENT

The following payments may be made to an employee who has either been declared redundant or has been retrenched:

- (i) Salary
- (ii) Leave pay
- (iii) Repatriation pay
- (iv) Refund of pension contributions (from an approved pension scheme)
- (v) Salary in lieu of notice
- (vi) Severance pay
- (vii) Accrued service bonuses
- (viii) Compensation for loss of office

The above payments are taxed as follows:

- ❑ Salary, Leave pay and Salary in lieu of Notice are taxed under PAYE in the month in which they are paid;
- ❑ Accrued service bonuses, repatriation pay, severance pay and compensation for loss of office are added together and taxed as follows:
 - The first K10 million is exempt from tax
 - The balance is taxed at 10%
- ❑ The refund of employee's pension contribution is taxed as a lump sum payment at the rate of 10% (section 82).
- ❑ The refunded employer's pension contribution under a defined contribution scheme will be subjected to tax under the PAYE system.

(d) EARLY OR NORMAL RETIREMENT

Where an employee has been retired early or normally, the following payments may be made:

- (i) Salary
- (ii) Leave pay
- (iii) Repatriation pay
- (iv) Pension from an approved pension fund (Fourth Schedule)
- (v) Accrued service bonuses
- (vi) Severance Pay

The above payments are taxed as follows:

- Salary and Leave Pay are taxed under PAYE in the month in which payment is made.
- Repatriation Pay, Severance pay, Accrued Service Bonuses, and compensation for loss of office are added together and taxed as follows:
 - the first K10 million is exempt from tax (with effect from 01/04/2005)
 - the balance is taxed at 10%
- Pension is exempt from tax (2nd schedule).

(e) TERMINATION OF EMPLOYMENT DUE TO DEATH

The following payments may be made upon the death of an employee:

- (i) Salary
- (ii) Leave pay
- (iii) Gratuity
- (iv) Ex-gratia payment
- (v) Accrued service bonuses

The above payments are taxed as follows:

- ❑ The salary up to date of death and leave pay is taxed under PAYE in the month in which payments are made.
- ❑ Gratuity is taxed as in paragraph 4.5(b).
- ❑ Ex-gratia payments are exempt from tax.

Where an employee dies when he is eligible for retirement, the tax treatment of payments made is the same as early or normal retirement in 4.5(d) above.

4.6 TAX TREATMENT OF LEAVE PAY AND SALARY IN LIEU OF NOTICE

All employers should take note that Leave Pay and Salary in Lieu of Notice received on resignation, dismissal, expiry of contract, redundancy or retrenchment, early retirement, or on termination of employment due to death, will not be classified as terminal benefits under section 21(5) of the Income Tax Act. Payments made in such cases should be subjected to tax under PAYE scheme in the normal way.

4.7 LUMP SUM PAYMENTS MADE ON MEDICAL GROUNDS

Where the employer, on medical advice, determines that an employee is permanently incapable of discharging his duties through infirmity of mind or body, he may terminate the services of an employee.

With effect from 1st April 2001, a lump sum payment made to an employee on termination of employment on medical grounds, is exempt from tax.

4.8 TAX TREATMENT OF SETTLING IN ALLOWANCES

Settling in allowances, or whatever name called, paid to new employees and employees on transfer constitute emoluments and should be subjected to tax under the PAYE scheme.

4.9 SEVERANCE PAY

In most cases employers make payments of “severance pay” upon the dismissal or resignation of an employee. Payments made in such cases should not be classified as terminal benefits under section 21(5) of the Income Tax Act.

However, where severance pay is paid as part of the package when an employee is retrenched, declared redundant, retires normally or opts for early retirement, the payment should be classified as terminal benefits. The tax treatment is covered under section 21(5) of the Income Tax Act Cap 323.

4.10 INCOME TAX RATES

(a) Personal Income Tax Rates:

Personal Income tax rates, with effect from 1st April 2005, are as follows:

Income Bands	Rates
First K3,360,000	@ 0%
Between K3,360,001 and up to K12,000,000	@ 30%
Between K12,000,001 and up to K60,000,000	@ 35%
Above K60,000,000	@ 37.5%

(b) Company Tax Rates:

Former ZCCM and any Mining companies carrying out mining operations in the production of copper and cobalt	@	25%
Other Mining companies	@	35%
On income from manufacturing & other	@	35%
On income from banks registered under the Banking and Financial Institutions Act;		
Income up to K250,000,000	@	35%
Income in excess of K250,000,000	@	45%
On income from farming	@	15%
On income from non – traditional exports	@	15%
On income from chemical manufacture of fertilizer	@	15%
On income of Trusts, Deceased or Bankrupt Estates	@	35%
On income from rural enterprises:		
The tax chargeable is reduced by one seventh for a period of five years.		

(c) Charitable Organisations

On income from business	@	15%
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(d) Withholding Tax Rates:

(i) Individuals:

Dividends (final tax)	@	15%
Interest on Government bonds (final tax)	@	15%

	Interest (final tax)	@	25%
	Royalties, Management and Consultancy Fees	@	15%
	Rents	@	15%
	Commissions	@	15%
(ii)	<u>Persons other than individuals</u>		
	Dividends (final tax)	@	15%
	Interest on Government bonds (final tax)	@	15%
	Interest	@	15%
	Royalties, Management and consultancy Fees	@	15%
	Commissions	@	15%

N.B When interest is awarded by Courts of Law and consequently included on payments in settlement of claims and compensations, it is still regard as “*interest*” and withholding tax should be deducted in accordance with the appropriate rates as above.

Other payments

	Non resident contractors	@	15%
	Public Entertainment Fees (Non residents and it is final tax)	@	15%
(iii)	<u>Exempt Organisations</u>		
	Interest on treasury bills and Government bonds (final tax)	@	15%
(iv)	<u>Former ZCCM Companies</u>		
	On payments paid by former ZCCM companies; Dividends	@	0%
	Interest	@	0%
	Royalties	@	0.6%
	Management Fees	@	0%

5.0 DIRECT TAXES CONTACT ADDRESSES:

If you have any problems concerning your taxes, please contact the Advice Centres or your nearest Direct Tax Office at the following addresses:

1. Advice Centre
2nd Floor Revenue House
Private Bag W136
LUSAKA
Tel: 226227/236227
Fax 222717
2. Assistant Commissioner
Lusaka "A" Tax Office
P.O. Box 31926
LUSAKA
Tel: 221497
3. Assistant Commissioner
Lusaka "B" Tax Office
P.O. Box 31936
LUSAKA
Tel: 221496
4. Assistant Commissioner
Lusaka "C" Tax Office
P.O. Box 31988
LUSAKA
Telefax: 01-236892
5. Assistant Commissioner
Ndola Tax Office
P.O. Box 70181
NDOLA
Tel: 02- 614694
Fax: 02- 614096
6. Assistant Commissioner
Kitwe Tax Office
P.O. Box 20855
KITWE
Tel: 02-230362
Fax:02-229942
7. Assistant Commissioner
Lusaka Taxes Central Unit
P.O Box 35710
LUSAKA
Telefax: 01-224935
Fax: 01- 224935
8. Assistant Commissioner
Direct Taxes Inv. Unit
P.O. Box 33675
LUSAKA
Telefax: 01-235252
9. Assistant Commissioner
International & Coordination
P.O Box 35710
LUSAKA
Telefax: 01-221493
10. Senior Inspector
Kabwe Tax Office
P.O. Box 80909
KABWE
Telefax: 05-223642
11. Senior Inspector
12. Senior Inspector

Chipata Tax Office
P.O. Box 510632
CHIPATA
Telefax: 062- 21155

Mongu Tax Office
P.O. Box 910110
MONGU
Telefax: 07-221380

13. Senior Inspector
Kasama Tax Office
P.O. Box 410728
KASAMA
Telefax: 04- 221810

14. Senior Inspector
Mansa Tax Office
P.O. Box 710112
MANSA
Telefax: 02-821333

15. Senior Inspector
Solwezi Tax Office
P.O. Box 110368
SOLWEZI
Telefax: 08-821682

16. Senior Inspector
Livingstone Tax Office
P.O. Box 60597
LIVINGSTONE
Telefax: 03-320772
Tel: 03-320411/16

17. Advice Centre
Nchanga House
P.O Box 20454
Kitwe
Telefax: 02-229301

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