PRACTICE NOTE

NO. 1 /2015

ZAMBIA
REVENUE
AUTHORITY

Working
To Serve You
Efficiently

Our Mission

"To optimise and sustain revenue collection through integrated, efficient, cost effective and transparent systems, professionally managed to meet the expectations of all stakeholders."

Our Vision

"To be a world class organisation recognized as a beacon of excellence in revenue administration"

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1.0 FOREWORD

This **Practice Note** describes the various changes introduced by the:

1. The Income Tax (Amendment) Act No. 7 of 2014.
2. The Income Tax (Amendment) Act (Pay As You Earn Regulations), Statutory Instrument No. 50 of 2014.
3. The Income Tax Act (Turnover Tax) (Amendment) Regulations, Statutory Instrument No.70 of 2014.
4. The Property Transfer Tax (Amendment) Act No. 9 of 2014.
5. The Mines and Minerals Development (Amendment) Act No. 11of 2014.
6. The Value Added Tax (Amendment) Act No. 13 of 2014.
7. The Value Added Tax Act (VAT Exemption Order) Statutory Instrument No. 68 of 2014.
8. The Value Added Tax Act (VAT Zero Rating Order) Statutory Instrument No. 69 of 2014.
9. The Value Added Tax Act (General) (Amendment) Regulations Statutory Instrument No. 67 of 2014.

The commentary is for general guidance only and is not intended to substitute the law in any particular case. It is therefore not exhaustive and does not 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 Acts.

Enquiries may be made through our National Call Centre, your nearest Client Service Centre or any Domestic Taxes Office.

Berlin Msiska
COMMISSIONER-GENERAL

PART I: SUMMARY OF AMENDMENTS

2.0 THE INCOME TAX ACT (ITA)

Section	Subject
1	Title and commencement
2	(1) Changes the definitions of the following; (a) Minerals (b) Mining operations (2) Introduces the following new definitions: (a) Industrial minerals (b) Mineral processing (c) Open cast mining operations (d) Underground mining operations
18	Provides for the taxation of income earned by a business resident in Zambia and arising from the carriage of persons, mail, livestock or any other goods shipped or loaded outside Zambia to other destinations outside Zambia.
43A	Restricts the deduction of bad and doubtful debts incurred by banks and other financial institutions registered under the Banking and Financial Services Act only to the extent not covered by security or collateral.
46	Provides for mandatory electronic filing of annual income tax returns.
56	Removes the mandatory requirement for businesses to submit financial statements together with the return.
81AA	Amends the definition of Permanent Establishment.
82A	Provides for deduction of withholding tax on branch profits.
Second Schedule Para 5(2)	Extends the income tax exemption to entities or persons approved under the Millennium Challenge Compact Act No. 6 of 2013.
Second Schedule Para 6A	Amends the sub-heading.
Para 10 Fifth Schedule	Provides for deduction of capital allowances on income earned by a person carrying on business of mineral processing.
Ninth Schedule	Increases the presumptive tax payable by individuals operating public service vehicles.
Charging Schedule Para 3(1)(e)	Introduces a tax rate on income arising from mineral processing at the rate of thirty percent.
3(1)(f)	Reduces the rate of tax on income arising from mining operations from thirty percent to zero percent

3(1)(g)	Restricts the charging of variable profit tax to income from mining operations of industrial minerals.
5(e)	Restricts income tax incentives to business enterprises approved under the Zambia Development Agency Act and carrying on manufacturing activities in rural areas, multi-facility economic zones or industrial parks.
5(f)	Restricts tax incentives on dividends to business enterprises approved under the Zambia Development Agency Act and carrying on manufacturing activities in rural areas, multi-facility economic zones or industrial parks.

3.0 THE INCOME TAX ACT (PAY AS YOU EARN REGULATIONS) STATUTORY INSTRUMENT NUMBER 50 OF 2014

Regulation	**Subject**
	Revokes the Income Tax (Pay As You Earn) Regulations of 1999, (Statutory Instrument Number 97) and replaces it with new Pay As You Earn Regulations.

4.0 INCOME TAX ACT (TURNOVER TAX) REGULATIONS, STATUTORY INSTRUMENT NUMBER 70 OF 2014

Regulation	**Subject**
2	Excludes interest, rental income, royalties and dividends from the definition of turnover.
7	Provides a different due date for manual filing of a turnover tax return.

5.0 THE PROPERTY TRANSFER TAX ACT

Section	**Subject**
1	Title and commencement
5	Limits the exemption from property transfer tax on the transfer of property to a group of companies that has a holding company incorporated in Zambia.

6.0 THE MINES AND MINERALS DEVELOPMENT ACT

Section	**Subject**
1	Title and commencement
2	Introduces the following new definitions; (a) Open cast mining operations (b) Underground mining operations
133	Restructures the Mineral Royalty regime by the introduction of: a) Mineral royalty rate of eight percent for underground mining operations; and b) Mineral royalty rate of twenty percent for open cast mining operations. c) Mineral royalty rate of twenty percent for a person in possession of minerals other than industrial minerals. d) Mineral royalty rate of six percent for a person in possession of industrial minerals.

7.0 THE VALUE ADDED TAX ACT

Section	Subject
1	Title and commencement
16	Provides for mandatory electronic filing of returns with ten or more transactions and further provides a requirement to submit manual returns by the 5th day of the month following the end of a tax period.
17	Clarifies the effective date of charging penalties on delayed payment of tax due on a Return.
28	Provides for the deregistration of a taxable supplier at the end of the accounting year.
50	Widens the scope of the anti-avoidance provision.

8.0 THE VALUE ADDED TAX ACT (EXEMPTION ORDER) STATUTORY INSTRUMENT NUMBER68 OF 2014

Para	Subject
2	Introduces a definition of animal feed
4	Repeals First Schedule of VAT Act
16(a)	a) Clarifies the type of agricultural products that are exempt under Group 16(a) (Agricultural products).
16(e)iv	b) Replaces the words “stock feeds” with the words “animal feed” in Group 16(e)(iv) (Agricultural supplies)

9.0 THE VALUE ADDED TAX ACT (ZERO-RATING ORDER) STATUTORY INSTRUMENT NUMBER 69 OF 2014

Para	Subject
2	Clarifies the items that qualify for zero-rating under projects funded by donors or co-financed with the government.
4	Repeals Second Schedule of the VAT Act

10.0 THE VALUE ADDED TAX (GENERAL) REGULATIONS, STATUTORY INSTRUMENT NUMBER 67 OF 2014

Regulation	Subject
13	Restricts the deduction of input tax by intending traders.

PART II: COMMENTARY ON AMENDMENTS

11.0 THE INCOME TAX ACT

11.1 SECTION 1: TITLE AND COMMENCEMENT

The amendments to the Income Tax Act shall come into effect on 1st January 2015.

11.2 SECTION 2: INTERPRETATION

11.2.1 The definitions of the following terms have been amended:

"Mineral" *has the meaning assigned to it in the Mines and Minerals Development Act 2008,* which is defined as below:

*"**Mineral**" means any substance, occurring naturally in or on the earth or in or under water and which was formed by or subjected to a geological process and includes any mineral occurring in residue stockpiles or in residue deposit, but excludes-*

(a) water, other than water taken from the land or any water body for the extraction for any mineral from such water; and
(b) petroleum.

"Mining Operation" *has the meaning assigned to it in the Mines and Minerals Development Act 2008,* which is defined as below:

"Mining Operation" means any operation carried out under a mining right referred to in section six but does not include an operation carried out under a prospecting permit, prospecting licence or mineral processing licence.

11.2.2 The following definitions have been introduced:

"Industrial minerals" *has the meaning assigned to it in the Mines and Minerals Development Act, 2008,* and is defined therein as below;

*"**Industrial mineral**" means a rock or mineral other than gemstones, base metals, energy minerals or precious metals used either in their natural state or after physical or chemical transformation and includes but is not limited to barites, dolomite, feldspar, fluorspar, graphite, gypsum, ironstone when used as a fluxing agent, kyanite, limestone, phyllite, magnesite, mica, nitrate, phosphate, pyrophyllite, salt, sands, clay, talc, laterite, gravel and any other minerals when so used: provided that the Minister may, by statutory order, classify any other mineral as an industrial mineral*

"Mineral processing" *means the practice of beneficiating or liberating valuable minerals from their ores, concentrates, or any semi-processed substance belonging to or purchased from another person.*

"Open cast mining operations" *has the meaning assigned to it in the Mines and Minerals Development Act 2008,* which is defined therein as below;

"open cast mining operations" *means any working or excavation open to the surface beneath the original surface of the ground for the purpose of mining, but excludes prospecting pits; and*

"Underground mining operations" *has the meaning assigned to it in the Mines and Minerals Development Act 2008,* which is defined therein as below;

*"**Underground mining operations"** means any working beneath the surface of the ground, which is accessed by means of a ramp, adit, raise, shaft or winze, but does not include an open pit mine or quarry.*

Note
The amendments harmonise the definition of minerals and mining operations in the Income Tax Act with the definitions in the Mines and Minerals Development Act.

Prior to 2015 persons that carried out both mining and mineral processing were considered to be carrying out mining operations whilst businesses that only carried on mineral processing were considered to be carrying on manufacturing activities for tax purposes. The introduction of the new definition clarifies that mineral processing will be treated as a separate and distinct business activity.

11.3 SECTION 18: INCOME DEEMED WITHIN THE REPUBLIC

Section 18 of the Income Tax Act is amended by the insertion of the following new subparagraph (j):

> ***(j) income earned by a person resident in Zambia from the carriage of persons, mail, livestock or any other goods shipped or loaded outside Zambia to other destinations outside Zambia.***

This amendment widens the tax base by including income earned by residents from sources outside the Republic of Zambia from international carriage **of persons, mail, livestock or any other goods**. This mitigates cases of double non-taxation of income arising from international transportation.

Note
It should be noted that where a person suffers double taxation, the Income Tax Act provides for unilateral double taxation relief. Where there is a tax treaty, double taxation will not arise.

11.4 SECTION 43A: DEDUCTION FOR BAD AND DOUBTFUL DEBTS

Section 43A is amended in sub-section (3) by the deletion of paragraph (b) and the substitution therefor of the following:

(b) "*the maximum deduction for any debt falling within the classifications set out under the Banking and Financial Services Act shall not exceed the prescribed level of provisioning for the debt required by the Bank of Zambia under the Banking and Financial Services Act, less the value of security or collateral pledged against the debt*"

This amendment empowers the Commissioner General to disallow bad debts secured by collateral when determining taxable income for banks and other financial institutions.

Example

A Commercial bank lends out K 200,000 with collateral on a house with a value of K 130,000. In the event that the client does not pay back the loan, the only amount to qualify as a deduction for bad debt will be determined as follows;

Loan Amount	–	200,000
Less Collateral	–	130,000
Amount allowed as bad debt	-	70,000

Where the amount realized upon recovery is less than the value of the collateral, the unrecovered amount will qualify for deduction. However, where there is full recovery, the bad debt that was allowed should be declared as income to the extent of the allowed bad debt.

Note
The example assumes that the loan is within the limits as prescribed under the Banking and Financial Services Act.

11.5 SECTION 46: RETURNS GENERALLY

Section 46 of the principal Act is amended by the:

(a) Insertion, after subsection (3), of the following:

"*(4) A return referred to in subsection (1) shall be lodged electronically*" and

(b) Renumbering of subsection (4) as subsection (5)

The amendment provides for mandatory on-line filing of Annual Income Tax Returns.

11.6 SECTION 56: DOCUMENTS IN SUPPORT OF RETURNS

Section 56 of the principal Act is amended by the deletion of sub-section (1) and the substitution therefor of the following:

(1) Notwithstanding subsection (3) of section fifty-five a return furnished under subsection (1) of section forty-six by a person may be supported by such accounts in Kwacha and other documents as are necessary to support the return and shall be signed by the person furnishing the return.

The amendment removes the requirement for businesses to submit financial statements and other financial information together with annual tax returns.

However, taxpayers are still required to retain the accounts and records for six years in accordance with Section 55 and such records should be furnished to the Commissioner-General on demand.

11.7 SECTION 81AA: DEFINITION OF PERMANENT ESTABLISHMENT

Section 81AA of the principal Act is amended by the repeal of section eighty-one AA and the substitution therefor of the following:

81AA (1) In this Act, "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on, and includes-

(a) a place of management;
(b) a branch;
(c) an office;
(d) a factory;
(e) a workshop;
(f) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources;
(g) a building site, a construction, assembly or installation project or any supervisory activity in connection with the site, project or activity, but only where that site, project or activity continues for a period of more than one hundred and eighty-three days;
(h) a place where an enterprise provides services, including consultancy services, through employees or other personnel engaged by the enterprise for that purpose within the Republic for a period or periods exceeding in the aggregate ninety days in any twelve-month period commencing or ending in the fiscal year concerned;
(i) in relation to an individual, a place where the individual performs services in the Republic for a period or periods aggregating more than ninety days within any twelve month period commencing or ending in the fiscal year concerned; and
(j) an installation or structure continuously used for the exploration for natural resources for a period of not less than one hundred and eighty-three days.

(2) Notwithstanding subsection (1), "permanent establishment" does not include -

(a) the use of facilities solely for storage, display or delivery of goods or merchandise belonging to an enterprise;
(b) the maintenance of a stock of goods or merchandise belonging to an enterprise solely for the purpose of storage, display or delivery;
(c) the maintenance of a stock of goods or merchandise belonging to an enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; or

(f) the maintenance of a fixed place of business solely for any combination of activities referred to in paragraphs (a) to (e), if the overall activity of the fixed place of business resulting from the combination is of a preparatory or auxiliary character.

(3) Notwithstanding sub-sections (1) and (2), a person, other than an agent of an independent status to whom sub-section (4) applies, acting on behalf of an enterprise and habitually exercising in the Republic an authority to conclude contracts on behalf of the enterprise, shall be deemed to have a permanent establishment in the Republic in respect of any activities which that person undertakes for the enterprise, unless the activities of that person are limited to those mentioned in sub-section 2 which, if exercised through a fixed place of business, would not make the fixed place of business a permanent establishment under the provisions of that sub-section.

(4) An enterprise of another country shall not be considered to have a permanent establishment in the Republic merely because it carries on business in the Republic through a broker, general commission agent or any other agent of an independent status, if the persons are acting in the ordinary course of their business.

(5) Where the activities of an agent referred to in sub-section (4) are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which should have been made between independent enterprises, the agent shall not be considered an agent of an independent status within the meaning of this sub-section

(6) Notwithstanding sub-sections (1), (2), (3), (4) and (5) an insurance enterprise of another country shall, except with regard to re-insurance, be deemed to have a permanent establishment in the Republic if it collects premiums within the Republic or insures risks situated in the Republic through a person other than an agent of an independent status to whom sub-section (4) applies.

(7) The fact that a company which is a resident of the Republic controls or is controlled by a company which is a resident of another country, or which carries on business in the other country, whether through a permanent establishment or otherwise, shall not of itself constitute either company a permanent establishment of either country.

The amendment widens the scope of the definition of a Permanent Establishment to include the provision of insurance services and reduces the threshold of time with respect to the furnishing of services from one hundred and eighty three days to ninety days in any twelve month period.

It follows therefore that where a payment is made to an enterprise or consultant for the provision of services in Zambia for less than ninety days, such payments shall be subjected to withholding tax. However, a permanent establishment would have been created where an enterprise or consultant has been providing services in Zambia for ninety days or more.

Additionally, a permanent establishment will be deemed to have been created where a dependent agent collects premiums or insures risks in the Republic on behalf of a foreign enterprise from the first day that such premium is collected or risk insured.

The definition further includes an installation or structure continuously used for the exploration for natural resources as a permanent establishment.

Where a permanent establishment has been created, an enterprise or consultant will be required to pay tax under the normal income tax regime as a separate entity.

NOTE
Where there is a tax treaty in place, the provisions of the treaty shall prevail.

11.8 SECTION 82A: DEDUCTION OF TAX FROM CERTAIN PAYMENTS

Section 82A of the principal Act is amended by the deletion of sub-section (1) and the substitution therefor of the following:

(1) Subject to the provisions of this section, a person or partnership making a payment of-

(a) a management or consultant fee 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;
(c) rent from a source within the Republic;
(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;
(f) commission deemed under section eighteen to be from a source within the Republic;
(g) winnings from gaming, lotteries and betting; or
(h) branch profits;

irrespective of whether the payment is made outside the Republic shall, before making any other deduction, deduct tax from the payment referred to in paragraphs (a) to (h) at the rate specified in the Charging Schedule or as the Commissioner-

General may direct to give effect to the provisions of any agreement made under section seventy-four or the provisions of the Second Schedule.

The amendment provides for deduction of withholding tax on branch profits. This means that where a branch of a foreign company is carrying on business in Zambia and declares profits which are not re-invested in the Republic of Zambia, such profits will be subject to withholding tax at the rate of fifteen percent regardless of whether such profits are repatriated outside the republic or not.

11.9 SECOND SCHEDULE: EXEMPTIONS

(a) The Second Schedule to the principal Act is amended in subparagraph (2) of paragraph 5 by the deletion of paragraph (c) and the substitution therefor of the following:

Millennium Challenge Account Zambia (MCA-Zambia) and any person eligible for income tax exemption as provided in the Millennium Challenge Compact Act, 2013.

The amendment extends the income tax exemption to eligible persons specified under the Millennium Challenge Compact Act No. 6 of 2013. This means that in addition to the Millennium Challenge Account Zambia (MCA-Zambia) and any implementing entity, the following shall also qualify for exemption: eligible entity or individual appointed, engaged, or defined as such under the Millennium Challenge Compact Act, 2013. The exemption provided under this part shall only apply to income arising from the Millennium Challenge Account.

(b) The Second Schedule to the principal Act is amended in paragraph (6A) by the deletion of the sub-heading and the substitution therefor of the following new sub-heading:

Interest on Treasury bills etc received by public benefit organisation, body, person or trust subject to withholding tax

This amendment includes in sub-heading of paragraph 6A "other exempt persons" that are covered by this paragraph. It is a requirement under the substantive provision that interest arising from treasury bills, Government bonds, corporate bonds or any financial instrument or securities received by public benefit organisations, body, person or trust should be subjected to a deduction of withholding tax. However, the sub-heading was not reflective of this requirement. Examples of exempt persons and bodies include statutory bodies, trade unions, local authorities, agricultural society, club or association, political parties, approved pension schemes, approved share option schemes and collective investment schemes.

11.10 FIFTH SCHEDULE: CAPITAL ALLOWANCES FOR BUILDINGS, IMPLEMENTS, MACHINERY AND PLANT, AND PREMIUMS

The Fifth Schedule to the principal Act is amended in sub-paragraph (5) of paragraph (10) by the insertion immediately after the word *"farming"* of the words *"mineral processing"*

This amendment provides for deduction of wear and tear allowance on income earned by businesses carrying on mineral processing at the rate of fifty percent following the classification of mineral processing as a separate source of income.

EXAMPLE 1: DIVIDED USE

Fire Mining Limited is an integrated mining company that has two mines and a smelter. In the year 2015 they processed three thousand tonnes from their mines, five hundred tonnes on behalf of Water Mines Limited and five hundred tonnes that it bought from the Country K. The smelter was first used on 1st January 2015 and was set up at a cost of 6,000,000.00 kwacha.

The capital allowances for the charge year 2015 will be calculated as follows:

Since the smelter is being used for processing own production and third party production, the qualifying cost for capital allowances that is deductible under mineral processing has to be apportioned.

Step 1: The appropriate basis of apportionment is the quantity of concentrate to be processed.

Own mineral processing	3000
Water Mines Production	500
Imported concentrate	500
Total	**4000**

Step 2: Computed proportion of allowable deduction (500+500)/4000 =0.25

Step 3: Amount subject to capital allowance (K6, 000,000.00*0.25) =1,500,000.00

Step 4: Capital allowance for 2015 at rate of 50% (K1, 500,000.00*0.5) = K750, 000.00

EXAMPLE 2: TRANSITION (Mining Operation to Mineral Processing)

Livingstone Mines Limited, an integrated mining company, set up a smelter that was brought into use on 1st January 2014. The smelter was set up at a cost of K6, 000,000.00. In the year 2015, it processed three thousand tonnes from its mine, five hundred tonnes on behalf of Water Mines Limited and five hundred tonnes that it bought from the Country Z.

In the year 2014, the company had enjoyed capital allowances against income from mining operations at the rate of twenty five percent as follows:

K6, 000.000.00*0.25=K1, 500,000.00. The income tax written down value for the smelter as at 1st January 2015 is (K6, 000,000.00 - K1,500,000) K4,500,000.00

The capital allowances for the charge year 2015 will be calculated as follows:

Since the smelter is being used for processing own production and third party production, the qualifying cost for capital allowances that is deductible under mineral processing has to be apportioned.

Step 1: The income tax written down value of K4, 500,000.00 will be the qualifying cost for capital allowances in the year 2015. However, since the smelter has mixed use, the qualifying cost for capital allowance will have to be apportioned.

Step 2: The appropriate basis of apportionment is the quantity of concentrate to be processed.

Own mineral processing	3000
Water Mines Production	500
Imported concentrate	500
Total	**4000**

Step 3: Computed proportion of allowable deduction (500+500)/4000=0.25

Step 4: Amount subject to capital allowance (K4, 500,000.00*0.25) =1,125,000.00

Step 5: Capital allowance for 2015 at rate of 50% (K1, 125,000.00*0.5) = K562, 500.00

Note: As regards Example 1 and 2 above, the capital allowance that does not qualify to be claimed under Mineral Processing activities but related to Mining Operations still qualifies to be deductible against income from mining operations that is taxable at zero percent for corporate income tax purposes.

11.11 NINTH SCHEDULE: PRESUMPTIVE TAX ON MOTOR VEHICLES FOR THE CARRIAGE OF PERSONS

The Ninth Schedule to the principal Act has been amended to increase the rates as follows:

Type of vehicle	Amount of tax per vehicle (2014)	Amount of tax per vehicle (2015)
(sitting capacity)	(per annum)	(per annum)
64 seater and above	K7,200	K14,400
50-63 seater	K6,000	K12,000
36-49 seater	K4,800	K9,600
22-35 seater	K3,600	K7,200
18-21 seater	K2,400	K4,800
12-17 seater	K1,200	K2,400
Below 12 seater (including taxis)	K600	K 1,200

The presumptive tax regime is a simplified scheme that is only available to individuals and partnerships carrying on business of public passenger transport.

It should be noted that, transport business operated by incorporated entities, associations or trusts are required to pay tax under the normal income tax regime.

11.12 CHARGING SCHEDULE

RATES OF TAX

(a) COMPANIES – Paragraph 3(e), (f), (g) and (h)

(i) The Charging Schedule to the principal Act is amended in paragraph 3, by the deletion of sub-paragraphs (e) and (f) and the substitution therefor of the following:

(e) on the income from mineral processing, at the rate of thirty percent;

(f) on the income from mining operations , at the rate of zero percent per annum, and on income from mining operations of industrial minerals, at the rate of thirty percent;

(g) where the income from mining operations of industrial minerals exceeds eight percent of the gross sales, at the rate determined in accordance with the following formula:

$$Y=30\% + [a-(ab/c)]$$

Where –
Y= the tax rate to be applied per annum;
a= 15%
b= 8%; and
c= the percentage ratio of the assessable income to gross sales.

This amendment:

1. reduces the rate of tax on income from mining operations of base and precious metals from thirty percent to zero percent. Note that income from mining operations of industrial minerals will be taxed at the rate of thirty percent.

2. restricts the application of the variable profit tax only to income from mining operations of industrial minerals.

3. introduces the rate of tax on income from mineral processing of thirty percent. Prior to 2015, mineral processing was considered as an activity under manufacturing whose income was taxed at thirty five percent where a company was not involved in mining. However where a company was involved in mining and mineral processing, the activity was considered as income under mining operations and was taxed at the variable profit tax rate.

NOTE:

- Businesses carrying on mining operations other than industrial minerals will still be required to file income tax returns and meet all obligations under the Income Tax Act despite the tax rate being reduced to zero percent;

- Where businesses carrying on mining operations and are undertaking the processing of minerals at a fee for third parties or processing of minerals purchased from third parties, income arising therefrom will be considered as income arising from a separate source and will be taxed under mineral processing at thirty percent.

- Businesses that were only carrying on mineral processing (not involved in mining) prior to 2015 and were taxed under manufacturing will still be allowed to utilise their tax losses carry forward (if any) to expire within the five year period.

(b) SPECIAL CASES – Paragraph 5(e) and (f)

The Charging Schedule to the principal Act is amended in paragraph 5 by the deletion of sub-paragraphs (e) and (f) and the substitution therefor of the following new sub-paragraphs (e) and (f):

(e) ***on the income of a business enterprise approved by the Zambia Development Agency and carrying on manufacturing activities in a rural area, a multi-facility economic zone or an industrial park tax shall be charged at zero percent for a period of five years starting from the year of commencement of operations of the approved investment;***

(f) tax to be deducted from any dividend declared by a business enterprise approved by the Zambia Development Agency and carrying on manufacturing activities in a rural area, a multi-facility economic zone or industrial park shall be at the rate of zero percent per annum for a period of five years starting from the year of commencement of operations of the approved investment.

This amendment restricts income tax incentives and tax incentives on dividends to business enterprises approved by the Zambia Development Agency and carrying on manufacturing activities in rural areas, multi-facility economic zones or industrial parks. Following this amendment, the Commissioner-General will only formalise tax incentives for businesses carrying on manufacturing activities in rural areas, multi-facility economic zones or industrial parks. This is notwithstanding the fact that statutory instrument number 17 of 2014 (priority sector) includes other sectors in addition to manufacturing.

The definition of a rural area is as provided for in section 2 of the Income Tax Act which states that:

“rural area” *means any area which is not an area declared or deemed to have been declared an area of any city or municipality under the Local Government Act (Cap 281) but excluding the area declared to be the area of the Kafue township under the said Act;*

This means that manufacturing businesses operating in towns administered by city councils or municipal councils will not qualify for tax incentives. Despite being a municipality, the town of Kafue qualifies as a rural area for the purposes of the Income Tax Act.

12.0 THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT) REGULATIONS STATUTORY INSTRUMENT NUMBER 50 of 2014

The 1999 Pay As You Earn Regulations have been revoked and replaced by 2014 Regulations. The effective date of the Regulations is 19th September 2014.

The 2014 Regulations:

(i) remove the requirement for submission of annual employer's return (P18).

(ii) provide for monthly remittance of tax deducted by individuals on direct payment schemes from quarterly basis [Regulation 24(4)].

(iii) extend the authority for signing of returns to tax paying agents or authorised officers of the entity [Regulation 17(7)].

(iv) harmonises the penalty regime for employers (individuals and companies) at one thousand penalty units for each calendar month or part thereof [Regulation 17(8)].

(v) harmonise the regulation on refunds with the substantive legislation under Section 87 of the Income Tax Act. Pay As You Earn refunds can only be claimed at the end of the charge year [Regulation 15(2)].

(vi) rename the “tax deduction card” to “tax deduction record” (Regulation 2).

(vii) increases the notification period for a new employee to advise the employer of the current and previous employment status from five days to thirty days (Regulation 3)

(viii) provide for the notification (employee's certificate) to be in the form of a sworn affidavit [Regulation 3].

NOTE:

1. Effective 2014 charge year, employers are no longer required to submit annual Pay As You Earn Returns (P18).

2. Zambian citizens working for foreign missions, international organisations or other employers governed under the Diplomatic Immunities and Privileges Act are personally required to declare and pay tax every month. It is therefore mandatory for all such employees to register for Pay As You Earn.

3. **Effective 19th September, 2014 a claim for a refund can only be made at the end of the charge year.** This means that Zambia Revenue Authority will only raise assessments for refunds after the end of a charge year to which the claim relates. Where an employee leaves employment in the course of the charge year and finds employment elsewhere within the same charge year, such an employee does not need to lodge in a claim for a refund within that charge year. That employee is required to submit a certificate (P13) to the new employer who will make the appropriate adjustments with regard to the cumulative emoluments.

4. The notification (employee's certificate) period for a new employee to advise the employer of the current and previous employment status has increased from five days to thirty days and the notification shall be in the form of a sworn affidavit. The

employee's certificate is in relation to the new employee certifying to the employer whether or not:

- the current employment is the only employment,
- the employee is also an employee of another employer and that employment began before the current employment,
- the employee has been employed before in that charge year,
- the employee has not been employed before in the charge year.

An employer that relies upon the employee's certificate shall not be held liable for failure to deduct tax at the maximum rate from any payment of emoluments to an employee unless the employer knew or ought to have known that the certificate was untrue.

13.0 INCOME TAX ACT (TURNOVER TAX) AMENDMENT REGULATIONS STATUTORY INSTRUMENT NO. 70 OF 2014

13.1 These Regulations shall come into effect on 1st January, 2015.

13.2 REGULATION 2

The principal Regulations are amended in Regulation 2 by the deletion of the definition of "turnover" and substitution thereof of the following:

"turnover" includes gross earnings, income, revenue, takings, yield or proceeds but does not include interest, rental income, royalties and dividends.

The definition of turnover has been amended to exclude interest, rental income, royalties and dividends as these do not arise from a business as defined in the Income Tax Act.

13.3 REGULATION 7

The Principal Regulations are amended in Regulation 7 by the deletion of sub-Regulation (2) and (3) and substitution thereof of the following:

7(2) A return of turnover for purposes of sub-regulation (1) may be submitted manually within five days from the end of the income tax month to which it relates.

(3) An electronic return shall be lodged within fourteen days after the end of the income tax month to which it relates.

The amendment provides for the option of persons to file Turnover Tax returns manually by the 5th day after the end the relevant month or electronically by the 14th day after the end of the relevant month. Persons who file returns manually after the end of the relevant month or after 14th day after the end of the relevant month will be charged late submission penalty.

14.0 THE PROPERTY TRANSFER TAX ACT

14.1 SECTION 1: TITLE AND COMMENCEMENT

The amendments to the Property Transfer Tax Act shall come into effect on 1st January 2015.

14.2 SECTION 2: INTERPRETATION

Section five of the principal Act is amended in subsection (6) by the insertion, immediately after the words *"a group of companies"* of the words *"whose holding company is incorporated in Zambia"*

Prior to 2015, where the Commissioner-General was satisfied that the transfer of property within a group was as a consequence of internal group re-organisation such a transfer would not have a realised value irrespective of where the holding company was incorporated.

This amendment now limits property transfers at no realised value only to such internal group re-organisations where the holding company is incorporated in Zambia. It is still a pre-condition that the recipient of the property must be a company resident in Zambia.

NOTE:
"group of companies" means a holding company together with all its subsidiaries;

"holding company" means a company that-
(a) holds the majority of the voting rights in another company;
(b) is a member of another company and controls a majority of the voting rights on its own or pursuant to an agreement entered into with other members; or
(c) is a member of another company and controls, and has the right to appoint or remove a majority of the board of directors in that company.

15.0 THE MINES AND MINERALS DEVELOPMENT ACT

15.1 SECTION 1: TITLE AND COMMENCEMENT

The amendments to the Mines and Minerals Development Act shall come into effect on 1st January, 2015.

15.2 SECTION 2: INTERPRETATION

Section 2 of the principal Act is amended in subsection (1) by the insertion in the appropriate place, of the following new definitions:

"open cast mining operations" means any working or excavation open to the surface beneath the original surface of the ground for the purpose of mining, but excludes prospecting pits; and

"Underground mining operations" means any working beneath the surface of the ground, which is accessed by means of a ramp, adit, raise, shaft or winze, but does not include an open pit mine or quarry.

These definitions will provide clarity on types of mining operations.

15.3 SECTION 133: ROYALTIES ON PRODUCTION OF MINERALS

The principal Act is amended by the repeal of section one hundred and thirty three and the substitution therefor of the following:

133. (1) A holder of a large-scale mining licence, large-scale gemstone licence, small-scale mining licence, small-scale gemstone licence or an artisan's mining right shall pay a mineral royalty at the rate of twenty percent for open cast mining operations and eight percent for underground mining operations of—

(a) the norm value of the base metals or precious metals produced or recoverable under the licence or right; and
(b) the gross value of the gemstones or energy minerals produced or recoverable under the licence or right.

2) The mineral royalty payable on industrial minerals shall be at six percent of the gross value of the minerals produced or recoverable under the licence.

3) Notwithstanding sub-sections (1) and (2), a person who is not a holder of a mining right or licence who extracts minerals or is in possession of minerals extracted in the Republic is liable to pay mineral royalty at the rate of-
a) six percent of the gross value for industrial minerals; and
b) twenty percent of the norm or gross value for other minerals.

4) Where the Commissioner-General determines that the realised price does not correspond to the price that would have been paid for the minerals if they had been sold on similar terms in a transaction at arm's length, between a willing seller and a willing buyer, the Commissioner-General may give a notice to that *effect to the licensee and the amount of the gross value shall be determined in accordance with the mechanism contained in sections ninety-seven A to ninety-seven D of the Income Tax Act.*

5) In this section-

"gross value" means the realised price for a sale free on board at the point of export from Zambia or point of delivery within Zambia;

"norm value" means-

a) the monthly average London Metal Exchange cash price per metric tonne multiplied by the quantity of the metal or recoverable metal sold;
b) the monthly average Metal Bulletin cash price per tonne multiplied by the quantity of metal sold or recoverable metal sold to the extent that the metal price is not quoted on the London Metal Exchange; or
c) the monthly average of any other exchange market approved by the Commissioner-General cash price per metric tonne multiplied by the quantity of the metal or recoverable metal sold to the extent that the metal price is not quoted on the London Metal Exchange or Metal Bulletin; and,

"Open cast mining operations" includes winnings from tailings dumps or similar dumps and leaching.

For the purposes of mineral royalty, the definition of open cast mining operations has been widened to include winnings from tailings and similar dumps and leaching (*in-situ* and heap leaching).

Mineral Royalty on base and precious metals is based on norm value whilst on energy minerals, industrial minerals and gemstones it is based on their gross value.

TABLE 1: CLASSIFICATION OF MINERAL

Class	Examples
Base Metals	Copper, Cobalt, Manganese, Zinc, Nickel, Lead, Iron, Aluminium, Tin
Precious Metals	Platinum, Gold, Silver, Selenium, Palladium, Mercury
Gemstones	Diamond, Emerald, Sapphire, Amethyst, Aquamarine, Topaz, Ruby, Beryl
Energy Minerals	Coal and Uranium
Industrial Minerals	Limestone, Ironstone, Dolomite, Gravel, Sand, Gypsum, Graphite, Salt, Phyllite, Mica, Talc, Clay, Laterite, Phosphate

TABLE 2: MINERAL ROYALTY RATES

Description	Rate
Open Cast Mining	20% of norm or gross value
Underground Mining	8% of norm or gross value
Industrial Minerals	6% of gross value
Person in possession of minerals (other than industrial minerals	20% of norm or gross value
Person in Possession of industrial minerals	6 % of gross value

15.4 MINERAL ROYALTY CALCULATION FOR COMPANIES INVOLVED IN BOTH UNDERGROUND AND OPEN PIT MINING OPERATIONS

Where a mining company has open pit and underground mining production feeding into a final sellable product (**e.g. anode cathode, concentrate etc**.), the apportionment of the final product for mineral royalty purposes shall be based on the contribution of each source which takes into account among other factors, the mineral content, and the recovery rate into the final product.

The return will be submitted on a self-assessment basis and the Commissioner-General may vary the assessment on a case by case basis.

16.0 THE VALUE ADDED TAX ACT

16.1 SECTION 1: TITLE AND COMMENCEMENT

All amendments to the Value Added Tax Act shall come into effect on 1st January 2015.

16.2 SECTION 15: EXEMPTIONS AND ZERO-RATINGS

Section fifteen of the principal Act is amended by the repeal of section fifteen and the substitution therefor of the following:

The Minister may, by statutory order-

a) approve, for the purpose of exemption from tax, any supply of goods or services or an importation of goods; or

b) zero-rate a supply of goods or services.

This amendment moves the exemption and zero-rating schedules from the principal Act to the statutory orders pursuant to the principal Act. Prior to 2015, the exemption and zero-rating orders were sitting in both the Value Added Tax Act and the statutory instruments.

16.3 SECTION 16 AND 17: TAX RETURNS

(a) Section sixteen of the principal Act is amended by the deletion of sub-section (2) and by the substitution therefor of the following:

(2) A return with less than ten transactions may be lodged manually and shall be submitted within five days after the end of the prescribed accounting period to which it relates or within such other time as the Commissioner-General may determine by notice;

(2A) A return with ten or more transactions shall be lodged electronically within twenty-one days after the end of the prescribed accounting period to which it relates or within such other time as the Commissioner-General may determine by notice.

The amendment provides for mandatory electronic filing of returns with ten or more transactions via the Zambia Revenue Authority web portal www.zra.org.zm . Returns filed electronically will be due on or before the 21st day after the end of the accounting period covered by the return. The amendment further provides a requirement to submit manual returns by the 5th day of the month following the end of the accounting period.

Note that returns filed after the respective due dates will attract penalties.

(b) Section 17 of the principal Act is amended by the deletion of sub-section (2) and the substitution therefor of the following:

(2) A taxable supplier who lodges a return but fails to pay the tax due on the return within the prescribed time shall pay additional tax of one half of one percent of

the tax payable in respect of the prescribed accounting period covered by the return for each day following the day when the payment is due to the date that the payment of the tax is made.

The amendment clarifies the effective date of charging penalties on delayed payment of tax due on a VAT Return.

16.4 SECTION 28: REGISTRATION

Section 28 of the principal Act is amended-

(a) by the insertion after subsection (6) of the following:

(7) Taxable suppliers whose turnover falls below the registration threshold for value added tax within a particular accounting year shall be deregistered at the end of the accounting year; and

(b) by the renumbering of subsection (7) as subsection (8)

The amendment provides for deregistration of a registered supplier whose turnover falls below the registration threshold in the course of an accounting year, to be effected only at the end of the accounting year. Therefore, such taxpayers will be expected to charge Value Added Tax on their taxable supplies up to the end of that accounting year.

Note

- Where business ceases, deregistration will be done during the course of the accounting year.
- Where a supplier ceases to make taxable supplies, they should stop charging Value Added Tax immediately and should notify the Commissioner-General within thirty days of the change in business circumstances.

16.5 SECTION 50: SCHEME FOR OBTAINING UNDUE TAX BENEFITS

Section 50 of the principal Act is amended in subsection (1) by the deletion of the word *"and"* at the end of paragraph (a) and the substitution therefor of the word *"or".*

The new sub-section 1 will therefore read as follows:

Notwithstanding any other provision of this Act, where the Commissioner-General is satisfied that any scheme that has the effect of conferring a tax benefit on any person was entered into or carried out: -

(a) solely or mainly for the purpose of obtaining that benefit; or

(b) by means or in a manner that would not normally be employed for bona fide business purposes, or by means of the creation of rights or obligations that would not normally be created between persons dealing at arm's length.

The Commissioner-General may determine the liability for any tax imposed by this Act, and the amount thereof, as if the scheme had not been entered into or carried out, or in such manner as, in the circumstances of the case, he considers appropriate for the prevention or diminution of the tax benefit sought to be obtained by the scheme

The amendment enhances anti-avoidance provisions by making the conditions to be applied independently. Where either of the conditions is fulfilled, the Commissioner-General may invoke the anti-avoidance provision and determine the tax liability of the person engaging in the tax avoidance scheme.

16.6 SECTION 52: ADMINISTRATIVE RULES

Section fifty-two of the principal Act is amended in subsection (1) by-

a) the insertion, immediately after paragraph (a), of the following paragraph:

   (b) the administration of the input tax claims; and

b) the re-numbering of paragraph (b) as paragraph (c).

The amendment empowers the Commissioner-General to prescribe rules for the administration of input tax claims.

17.0 VALUE ADDED TAX (EXEMPTION) AMENDMENT ORDER STATUTORY INSTRUMENT NO. 68 OF 2014

17.1 The First Schedule to the VAT Act has been repealed and Statutory Instrument number 68 of 2014 is now the Principal Exemption Order.

The exemptions will no longer be in the Schedules to the Act but will be contained in the Statutory Instruments pursuant to Section 15 of the Act.

17.2 PARAGRAPH 1: INTERPRETATION

The First Schedule is amended in paragraph 1, by the insertion in the appropriate place of the following definition:

"*animal feed" has the meaning assigned to it in the Animal Health Act, 2010;* which is defined therein as follows -

"animal feed" means—

(a) any—

(i) substance obtained by a process of crushing, gristing or grinding or by the addition to any substance or removal therefrom of any ingredient;

(ii) condimental foodstuff or mineral substance which possesses, or is alleged to possess, nutritive properties; or

(i) substance of substance of animal origin; which is intended or offered for the feeding of animals; or

(b) any stock lick or substance which can be and is used as a stock lick, whether or not it possesses medicinal properties;

but does not include straw, chaff, hay, silage, cereal in the grain or any substance which has been crushed, gristed or ground for a farmer in accordance with the farmer's directions for own use, unless such substance has been declared by the Minister, by notice in the Gazette, to be animal feed for the purposes of this Act;

17.3 PARAGRAPH 2: EXEMPT SUPPLIES

Group 16(a) (Agricultural Products)

The exemption order is amended in paragraph 2 of Group 16 by the deletion of sub-paragraph (a) and the substitution therefor of the following:

a) Agricultural products – maize, nuts, soya beans, millet, cassava, sorghum and other cereals including flours produced from them and fresh edible vegetables and fruits;

except when any of the above products is-

(i) canned, frozen or freeze dried;
(ii) supplied by a restaurant, cafeteria, canteen or like establishment; or
(iii) cotton seed, seed cotton, lint, baby corn, sweet corn, mangetout peas (snow peas) sugar snaps, fresh or chilled beans (not dried), carrots, courgettes, patty pans, gem squash, butternut, peppers, leeks, chillies, asparagus, okra, spring onion, peas, tenderstem broccoli, purple sprouting broccoli, minisavoy cabbage, mixed and sliced vegetables, paprika; or
(iv) gooseberries, passion fruit, and melons;

The amendment clarifies the type of agricultural products that are exempt under Group 16(a) and further removes the ambiguity created by putting the words "fresh edible" at the beginning of the sentence giving an impression that every agricultural product in that provision had to be fresh and edible to qualify for exemption.

Group 16(e) (Agricultural Supplies)

The First Schedule is amended in paragraph 2 of Group 16 by the deletion in item (iv) of sub-paragraph (e) of the word "stock feeds" and the substitution therefor of the word "animal feed"

The amendment replaces the words "stock feeds" with the words "animal feed" in Group 16(e)(iv) and therefore broadens the exemption to cover all animal feed (as defined in the Animal Health Act, 2010) for cattle, swine, sheep, goats, game farm animals and poultry.

18.0 VALUE ADDED TAX (ZERO-RATING) AMENDMENT ORDER STATUTORY INSTRUMENT No. 69 OF 2014

18.1 The Second Schedule of the Act has been repealed and Statutory Instrument number 69 of 2014 is now the Principal Zero-Rating Order.

The zero-rated items will no longer be in the Schedules to the Act but will be contained in the Statutory Instruments pursuant to Section 15 of the Act.

18.2 PARAGRAPH 1: INTERPRETATION

The Second Schedule is amended in paragraph 1 by the deletion of the definition of "technical aid programme or project" and the substitution therefor of the following:

> *"technical aid programme or project" means the provision of goods and services under a technical aid agreement or project with the Government of the Republic of Zambia, which are supplied solely for the purpose of project, and shall not apply to a sub-contractor or any other third party"*

The amendment clarifies the items that qualify for zero-rating under projects funded by donors or co-financed with the government. It should be noted that the services and goods must be for the sole benefit of the project.

19.0 VALUE ADDED TAX (GENERAL) (AMENDMENT) REGULATIONS STATUTORY INSTRUMENT No 67 OF 2014

19.1 REGULATION 13: INTENDING TRADERS

The principal regulations are amended in sub-regulation (4) of regulation 13 by the deletion of the proviso in paragraph (c) and the insertion of the following sub-regulation:

(4A) the input tax claimed pursuant to sub-regulation (4) shall relate to the business activity as approved by the Commissioner-General at registration and shall not apply after the stated periods have elapsed, unless the trading activities have commenced and the supplier is making taxable supplies"

The amendment restricts an intending trader to claim input tax on corresponding business lines after the expiry of the period where he has not commenced trading. Note that where a taxable supplier engages in other business activities **during the i**ntending trader period, that supplier may claim corresponding input tax against the corresponding output tax.

PART III: OTHER MATTERS

20.0 TAXATION OF BENEFITS

(i) Payment of Employees' Bills (benefits convertible into money's worth)

Where an employer discharges the liability of an employee by paying his or her private bills or expenses such as rent, electricity, telephones , water bills, school fees, or school association fees, club membership fees, similar payments, 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 money or money's worth

Benefits which cannot be converted into money or money's worth 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) of the Income Tax Act].

(a) In the case of residential accommodation provided to an employee by the 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.

NOTE:
Leasing in this part is in respect of amounts which cannot be converted into money's worth

(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 below 4000cc - K20, 000 per annum.

(ii) **Other Cars**

- 1800cc and below 2800cc - K15, 000 per annum.
- Below 1800 cc - K9, 000 per annum.

A personal - to - holder vehicle means a vehicle provided to an employee for both business and 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/fuel allowance;
- Domestic Utility allowances e.g. for electricity, telephone, and water;
- Commuted car allowance;
- Settling in allowance; and
- Allowances paid in recognition of an employee's professional qualifications.

20.1 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 taxable emoluments.

(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 (Paragraph 7 (t) of the 2nd Schedule to Income Tax Act).

(ii) **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 (Statutory Instrument No. 104 of 1996).

(iii) **Funeral Expenses:**
Funeral expenses paid or incurred by an employer on behalf of an employee are exempt (Statutory Instrument No. 104 of 1996).

(iv) **Sitting Allowances for Councillors:**
Payments by Local Authorities to Councillors as Sitting Allowances are exempt [Paragraph 7(s) of the 2nd Schedule to Income Tax Act].

(v) **Labour Day Awards**
Labour Day awards paid to employees either in cash or in kind are non-taxable.

21.0 TAX TREATMENT OF CERTAIN EXPENSES.

21.1 EXPENSES INCURRED ON ENTERTAINMENT, HOSPITALITY AND GIFTS

Expenses incurred on 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;

c) Where an employer provides entertainment or hospitality for employees, e.g. meals, accommodation etc on business trips or a Christmas party for employees;

d) Where a person gives gifts which bear an advertisement for the donor, e.g. calendars, pens, key holders, diaries, and other such like items, as long as the cost of the gift(s) to any one person does not exceed K100 in a charge year. The cost of gifts in excess of K100 to the same person is disallowable.

Note: i) Employees receiving entertainment allowances would be taxed under PAYE and the amount would be disallowable to the employer.

ii) 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.

21.2 TAX TREATMENT OF CANTEEN EXPENSES AND REFRESHMENTS.

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.

22.0 PAYMENTS ON CESSATION OF EMPLOYMENT

Payments on cessation of employment fall into the following categories, among others;

(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 redundancy;
(d) payments made to an employee on retirement; and
(e) payments made on the termination of employment due to death of an employee.

(a) DISMISSAL OR RESIGNATION OF AN EMPLOYEE

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

i. emoluments for example. salary, wage, overtime, leave pay, commission, bonus, fee;
ii. cash in lieu of leave (leave days due but not taken);
iii. salary in lieu of notice;
iv. severance pay; and
v. gratuity. (see treatment for gratuity *(b)* below)

Payments (i) to (iv) above are taxable by reference to the PAYE Tax Tables applicable for the month in which the payment accrued and do not qualify for the K35, 000 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) a 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 the payment accrues to the employee.

- Qualifying gratuity paid is taxed as follows:

Table 3

Qualifying Gratuity Bands	Rates
First K36,000	@ 0%
Above K36,000	@ 25%

A qualifying gratuity is one that meets the following conditions:

(i) is paid upon the termination of a written contract;
(ii) the contract duration is not less than two years; and
(iii) is not more than 25% of the basic salary earned during the period of employment.

- Non - qualifying gratuity is added to the salary for the month in which it is paid and taxed with reference to the appropriate PAYE tax table.

Non qualifying gratuity is gratuity that does not meet any of the criteria set out under qualifying gratuity.

NOTE: Where the gratuity rate exceeds 25%, the first 25% will qualify and the balance will not. Therefore, gratuity shall not be deemed non-qualifying where the all the conditions are met except that the rate exceeds 25%.

(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, Salary in lieu of Notice, Accrued service bonuses are taxed under PAYE in the month in which they accrued to the employee;
- Repatriation allowance, Severance pay and Compensation for loss of office shall be taxed as follows:

The first K35, 000 is exempt from tax and the balance is taxed at 10% (Section 21(5))

- 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 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;
(v) accrued service bonuses; and
(vi) severance pay.

The above payments are taxed as follows:

- Salary, leave pay and accrued service bonuses are taxed under PAYE in the month in which payment accrued to the employee.

- Repatriation pay and severance pay shall be taxed as follows:
  - The first K35, 000 is exempt from tax and the balance is taxed at 10%;
  - Pension from an approved fund is exempt from tax (Paragraph 7(q) of 2nd Schedule to the Income Tax Act).

(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) an ex-gratia payment;
(v) accrued service bonuses; and
(vi) pension.

The above payments are taxed as follows:

- The salary up to date of death, leave pay and accrued service bonuses are taxed under PAYE in the month in which the payments accrued to the employee.
- Gratuity is taxed as in paragraph 22.0(b) above.
- Ex-Gratia payments are exempt from tax.
- The tax treatment of pension is the same as for early or normal retirement in 22.0(d) above.

22.1 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.

22.2 LUMPSUM PAYMENTS MADE ON MEDICAL GROUNDS

Where the employer, on medical advice from a Government institution, determines that an employee is permanently incapable of discharging his/her duties through infirmity of mind or body, may terminate the services of an employee.

A lump sum payment made to an employee on termination of employment on medical grounds is exempt from tax.

22.3 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 a 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.

23.0 TAX TREATMENT OF SETTLING IN ALLOWANCES

Settling in allowances, or any such similar payments, paid to new employees and employees on transfer constitute emoluments and should be subjected to tax under the PAYE scheme.

24.0 TAXATION OF RENTAL INCOME

Rental income received by any person is subject to withholding tax at the rate of 10% and it is a final tax.

24.1 Tenant's obligations

A Tenant must -

(i) register for withholding tax and obtain a Taxpayer Identification Number;
(ii) submit, to the Commissioner-General, a withholding tax return within 14 days following the month of payment of the rentals.;
(iii) deduct and pay the withholding tax amount within 14 days following the month of deduction; and
(iv) give a copy of the receipt in respect of the payment and certificate of deduction to the landlord within 14 days of making the payment.

24.2 Landlord's obligations

A landlord must -

(i) register for income tax and obtain a Taxpayer Identification Number; and
(ii) submit annual income tax returns making full declaration of the rental income and other income received during the year.

24.3 Penalties for non-compliance by the tenant

Where a person fails to submit the Withholding Tax return and /or certificate to the Commissioner-General or to any other person authorised by the Commissioner, there shall be charged a penalty of-

- in a case of an individual 170 penalty units per month or part thereof during which such failure continues, or
- in a case of a company 340 penalty units per month or part thereof during which such failure continues.

24.4 Penalties for non-compliance by the Landlord

Where a person fails to submit an annual income tax return on or before the due date, there shall be charged a penalty of-

- in a case of an individual 1000 penalty units per month or part thereof during which such failure continues, or
- in a case of a company 2000 penalty units per month or part thereof during which such failure continues.

Note: A penalty unit is Twenty Ngwee (Fees and Fines Act, Statutory Instrument No. 8 of 2014)

25.0 PART IV: TAX RATES

(a) **Personal Income Tax Rates:** Personal Income tax rates are as follows:

Table 4

Income Bands	Rates
First K36,000	@ 0%
Above K36,000 up to K45,600	@ 25%
Above K45,600 up to K70,800	@ 30%
Above K70,800	@ 35%

(b) Other Income Tax Rates

Table 5

Category	Rate (%)
Mining operations for industrial minerals (variable profit tax)	Y=30% + [15%-(ab/c)], where- **Y**= tax rate to be applied per annum; **a** = 15%; **b** = 8%; and **c** = the percentage ratio of the assessable income to gross sales
Mining operations other than industrial minerals	0
Mineral processing	30
Manufacturing & other companies	35
Public Benefit Organisation (on income from business)	15
Agro-processing	10
Farming	10
Non- traditional exports	15
Chemical manufacture of fertilizer	15
Organic Manufacture of fertilizer	15
Trusts, deceased or bankrupt estates	35
Rural enterprises	Tax chargeable reduced by 1/7 for 5 years
Business enterprise operating in a priority sector declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained prior to 11th October 2013)	0% for the first 5 years
	Rate reduced by 50% from 6 -8 years
	Rate reduced by 25% from 9 -10 years
Manufacturing enterprise located in a rural area, Multi Facility Economic Zone or industrial park	0 % for the first 5 years from commencement of operations.
Electronic communication business:	
First K250, 000	35
Above K250, 000	40

(c) Withholding Tax Rates

Table 6

Category	**Rate (%)**
Dividends (Final Tax)	15
Dividends paid by a company carrying on mining operations	0
Dividends paid by a manufacturing enterprise located in a rural area , Multi Facility Economic Zone or industrial park	0 % for the first 5 years from commencement of operations.
Interest on GRZ bonds (Final Tax for Individuals & Exempt Organisations only)	15
Interest for individuals (earned from banks or building societies savings and deposit accounts),	0
Interest on Treasury Bills for Individuals (Final Tax)	15
Interest on Treasury Bills (Final Tax for Exempt Organisations)	15
Other Interest	15
Royalties (Residents)	15
Royalties to Non - Residents	20
Rent (Final Tax)	10
Commissions (Residents)	15
Commissions paid to Non-Resident persons (Final Tax)	20
Public Entertainment Fees for Non- Residents (Final Tax)	20
Management and Consultancy Fees to Non -Residents	20
Non-Resident Contractors (Final Tax)	20
Payment or Distribution of Branch Profits	15
Payment of Winnings from Gaming, Lotteries and Betting	20

Notes:

(i) Interest includes that awarded by the Courts of Law.

(ii) The term “Royalty” includes income from leasing and therefore leasing income is subject to withholding tax.

(d) VAT Rate

Category	**Rate**
Standard Rate	16%
Zero-Rate	0%
Exempt	Not taxable

(e) Property Transfer Tax Rates

Category	**Rate**
Land(including buildings, structures or improvements there on)	10%
Shares	10%
Mining Right/ Interest in Mining Right	10%

(f) Mineral Royalty

Description	**Rate**
Open Cast Mining	20% of norm or gross value
Underground Mining	8% of norm or gross value
Industrial Minerals	6% of gross value
Person in possession of minerals (other than industrial minerals	20% of norm or gross value
Person in Possession of industrial minerals	6 % of gross value

26 DOMESTIC TAXES CONTACT ADDRESSES:

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

1
Client Services Centre
New Revenue Hall
Private Bag W136
Lusaka
Tel: Zamtel Network: (01) 383201
Airtel Network: 0971 283201
Fax: 021 1 226227

2
Client Services Centre
Nchanga House
P. O. Box 20454
Kitwe
Tel: Zamtel Network: (01) 38 4420
Airtel Network: 0971 28 4420
Fax: 021 2 222942

3
Client Services Manager – Large Taxpayer Office
6th Floor, Revenue House
P.O. Box 35710
Lusaka
Tel: Zamtel Network: (01) 38 2626
Airtel Network: 0971 28 2626
Fax: 021 1 220283

4
Assistant Director
Design & Monitoring - Taxpayer Services
P .O .Box 35710
Lusaka
Tel: Zamtel Network: (01) 382505
Airtel Network: 0971 28 2505
Fax: 021 1 221075

5
Assistant Director
Design & Monitoring – Policy & Legislation
P .O .Box 35710
Lusaka
Tel: Zamtel Network: (01) 38 2504
Airtel Network: 0971 28 2504
Fax: 021 1 221075

6
Assistant Director
Design & Monitoring – Processing and Enforcement
P .O .Box 35710
Lusaka
Tel: Zamtel Network: (01) 38 2502
Airtel Network: 0971 28 2502
Fax: 021 1 221075

7
Assistant Director
Design & Monitoring – Audit
P .O .Box 35710
Lusaka
Tel: Zamtel Network: (01) 38 2506
Airtel Network: 0971 28 2506
Fax: 021 1 221075

8
Assistant Director
Large Taxpayer Office – Non-mining Audit Unit
P .O .Box 35710
Lusaka
Tel: Zamtel Network: (01) 38 2602
Airtel Network: 0971 28 2602
Fax: 021 1 220283

9
Assistant Director
Large Taxpayer Office – Processing and enforcement
P .O .Box 35710
Lusaka
Tel: Zamtel Network: (01) 38 2604
Airtel Network: 0971 28 2604
Fax: 021 1220283

10
Assistant Director
Large Taxpayer Office – Mining Audit Unit
P .O .Box 35710
Lusaka
Tel: Zamtel Network: (01) 38 2605
Airtel Network: 0971 28 2605
Fax: 021 1 220283

11
Assistant Director
Small Taxpayer Office - Lusaka
P .O .Box 35710
Lusaka
Tel: Zamtel Network: (01) 38 3237
Airtel Network: 0971 28 3237
Fax: 021 1 229744

12
Assistant Director
Small Taxpayer Office - Copperbelt
P.O. Box 70181
Ndola
Tel: Zamtel Network: (01) 38 4101
Airtel Network: 0971 28 4101
Fax: 021 2 614096

13 Assistant Director
Medium Tax Office – South
P .O .Box 35710
LUSAKA
Tel: Zamtel Network: (01) 38 2100
Airtel Network: 0971 28 2100
Fax: 021 1 229744

14 Assistant Director
Medium Tax Office – North
P .O .Box 20855
Kitwe
Tel: Zamtel Network: (01) 38 4500
Airtel Network: 0971 28 4500
Fax: 021 2 229942

15 Provincial Manager
Small Taxpayer Office - Central
P.O. Box 80909
Kabwe
Tel: Zamtel Network: (01) 38 1005
Airtel Network: 0971 28 1005
Fax: 021 5 223642

16 Provincial Manager
Small Taxpayer Office - Western
P.O. Box 910110
Mongu
Tel: 021 7 221662
Fax: 021 7 221662

17 Provincial Manager
Small Taxpayer Office - Eastern
P.O. Box 510632
Chipata
Tel: 021 6 221155
Fax: 021 6 221155

18 Provincial Manager
Small Taxpayer Office - Southern
P.O. Box 60597
Livingstone
Tel: Zamtel Network: (01) 38 3803
Airtel Network: 0971 28 3803
Fax: 021 3 320772

19 Provincial Manager
Small Taxpayer Office - Luapula
P.O. Box 710112
Mansa
Tel: Zamtel Network: (01) 38 1700
Airtel Network: 0971 28 1700
Fax: 021 2 821147

20 Provincial Manager
Small Taxpayer Office – North-Western
P.O. Box 110368
Solwezi
Tel: 021 8 821682
Fax: 021 8 821682

21 Provincial Manager
Kasama Tax Office
P.O. Box 410728
Kasama
Tel: 021 4 221810
Fax: 021 4 221810

22 National Call Centre
New Revenue Hall
Private Bag W136
Lusaka
Tel: Zamtel Network: (01) 381111
Airtel Network: 0971 281111
Or 5972

Website: http://www.zra.org.zm

Our Values

Our commitment to serving Government, taxpayers, employees and other stakeholders is reflected in our Corporate Values:

Integrity	: exhibiting the highest standards of personal probity and behaviour;
Professionalism	: performing official duties with skill, care and diligence; and providing the public with service and advice in a professional manner;
Fairness	: performing official duties in an impartial manner free of political, personal or other biases;
Equity	: treating all taxpayers, colleagues and members of the public equitably in accordance with the provisions of legislation and procedures in force;
Courtesy	: treating all taxpayers, colleagues and members of the public with courtesy and being sensitive to their rights, duties and aspirations;
Teamwork	: working as a team, not only to reinforce each other's divisional functions, but also at collegiate level in order to strengthen mutual confidence, respect and trust
Value for Money	: avoiding wastage and extravagant use of resources;
Confidentiality	: upholding the highest level of secrecy in respect of information that comes to one's knowledge in the course of duty;
Goal orientation	: focusing on the development and achievement of personal and organisational goals in the course of duty;
Innovation	: consistently improving on quality, quantity, timeliness and cost.

For more information contact:

+260 211 381111/0971-281111/ 5972 / 0962251111

Email us at: advice@zra.org.zm
Website: www.zra.org.zm

Revenue House: P O Box 35710 Lusaka, Zambia