



**ZAMBIA REVENUE AUTHORITY**

**DIRECT TAXES DIVISION**

**INCOME TAX (AMENDMENT) ACT 2002**

**PRACTICE NOTE NO. 1/2002**

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## **GENERAL**

This PRACTICE NOTE describes the various changes introduced by the Income Tax (Amendment) Act 2002.

**The commentary is for general guidance only and is not to be taken as an 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 Offices or Advice Center, Lusaka.

# INCOME TAX (AMENDMENT) ACT 2002

## A SUMMARY OF PRINCIPAL CHANGES

<b>AMENDMENT ACT</b>	<b>ITA</b>	<b>SUBJECT</b>	<b>EFFECTIVE DATE</b>
CLAUSE	SECTION		
1	1	Title and Commencement.	01- 04 – 02
2(a)	2	Amends the definition of "Taxpayer Identification Number".	01– 04 - 02
2(b)(i)	2	Introduces the definition of "approved share option scheme".	01– 04 - 02
2(b)(ii)	2	Introduces the definition of "share option scheme".	01- 04 – 02
3	21(5)	Increases the exempt portion of terminal benefits from K3 Million to K5 Million.	01- 04 – 02
4	29A	Clarifies the treatment of foreign exchange gains or losses for banks.	01- 04 – 02
5	34A	Clarifies the time limit for the carry forward of development allowance.	01- 04 –02
6	37A	Introduces a deduction for expenditure on approved share option schemes.	01- 04- 02
7	43C	Deletes section 43C .	01- 04 –02
8(a)	43D(1)	Substitutes the words "person with disability" with "handicapped person".	01- 04- 02

8(b)	43D(2)	Increases the deduction for employing persons with disability from K240,000 to K500,000.	01-04- 02
9	44	Prohibits the deduction of expenditure on non approved share option schemes.	01- 04-02
10	46	Introduces a requirement for returns to be expressed in Kwacha.	01- 04- 02
11(a)	46A(1)	Increases the threshold for submission of a return by an individual from K1,440,000 to K1,800,000.	01- 04- 02
11(b)	46A(2)	Introduces a requirement for provisional returns to be expressed in Kwacha.	01- 04- 02
12	53	Extends the Commissioner - General's power to access electronically stored data.	01- 04- 02
13	56	Introduces a requirement for accounts and other documents to be expressed in Kwacha.	01-04 - 02
14	58	Extends the Commissioner - General's power to require the production and preservation of electronically stored data.	01- 04- 02
15	63	Prohibits the assessment of interest on government bonds, where withholding tax has been deducted.	01-04-02

16	64	Empowers the Commissioner-General to raise estimated assessments where a company is to be wound up or liquidated.	01-04-02
17(a)	97AA(a)	Clarifies the definition of "Zambian grouping".	01-04-02
17(b)	97AA(b)	Corrects the drafting errors in the Income Tax (Amendment Act) 2001.	01-04-02
18	104	Extends the Commissioner - General's power to search and seize electronically stored data.	01-04-02
19(1)	1 <sup>st</sup> Sch.	The new paragraph 8 extends the definition of income to include gross sale proceeds of shares or options.	01- 04- 02
19(2)	Proviso to Parag. 8	Provides relief on sale proceeds of shares or options under section 21(5).	01- 04- 02
20(a)	2 <sup>nd</sup> Sch.	Provides for the exemption from tax on income from an approved share option scheme.	01-04- 02
20(b)	2 <sup>nd</sup> Sch.	Removes the exemption of education allowance.	01- 04- 02
20(c)	2 <sup>nd</sup> Sch.	Provides for the exemption of a benefit which arises under an approved share option scheme.	01- 04- 02
20(d),(e) & (f)	2 <sup>nd</sup> Sch.	Deletes the provisions which dealt with the exemption of educational passage.	01- 04- 02
21	4 <sup>th</sup> Sch. 2(3)(c)(vii)	Increases the commutable pension from K1 Million to K 5 Million .	01- 04- 02

22	6 <sup>th</sup> Sch.	Increases the deduction for farm dwelling from K1 Million to K5 Million.	01- 04- 02
23	8 <sup>th</sup> Sch.	Introduces new provisions for approved share option schemes.	01- 04- 02
24(a)(i)	Charg. Sch.	Restructures individual tax credit.	01- 04- 02
24(a)(ii)	Charg. Sch.	Increases "person with disability" tax credit from K1,200 to K18,000 per annum.	01- 04- 02
24(b) & (c)	Charg. Sch.	Restructures the tax bands.	01-04- 02
24(d)	Charg. Sch.	Provides for the income of mining companies involved in the production of copper and cobalt to be taxed at 25%.	01-04- 02
24(e)	Charg. Sch.	Provides for a zero withholding tax rate on dividends paid by mining companies involved in the production of copper and cobalt.	01-04- 02
24(f)(i)	Charg. Sch.	Provides for a zero withholding tax rate on interest, royalties and management fees paid by mining companies involved in the production of copper and cobalt.	01-04- 02
24(f)(ii)	Charg. Sch.	Provides a withholding tax rate of 15% on interest earned on government bonds, which will be the final tax.	01- 04- 02

## **2.0 INCOME TAX (AMENDMENT) ACT 2002**

### **COMMENTARY**

#### **2.1 SECTION 2: DEFINITIONS**

(a) **TAXPAYER IDENTIFICATION NUMBER (TPIN):**

The definition has been amended to harmonise it with that of the Customs and VAT Acts. The amendment now defines "Tax Payer Identification Number" as the national registration card number or such number as may be designated and issued by the Commissioner General to a taxpayer.

The Zambia Revenue Authority is working towards integrating the operations of the three Divisions (Customs and Excise, Direct Taxes and Value Added Tax). The integration of the taxpayer records will entail that the computer systems are run as a single database for all the three Divisions. The TPIN therefore, will be used to classify and identify each taxpayer for all types of taxes.

(b) **APPROVED SHARE OPTION SCHEME:**

The amendment introduces a definition for "approved share option scheme" as a scheme that has been approved by the Commissioner General under the Eighth Schedule.

(c) **SHARE OPTION SCHEME:**

The amendment introduces a definition for "share option scheme" as a scheme that provides an option to an employee to acquire shares in the company in which he is employed".



## **2.2 SECTION 21(5): APPORTIONMENT OF GRATUITIES AND COMPENSATION FOR LOSS OF OFFICE.**

The amendment raises the exemption limit of terminal benefits from K3 million to K5 million. However, the balance of the terminal benefits received, if any, shall continue to be taxed at the flat rate of 10%.

## **2.3 SECTION 29A: FOREIGN CURRENCY EXCHANGE GAINS AND LOSSES**

### **New Proviso to Subsection 2:**

The proviso to subsection 2 has been introduced to clarify the tax treatment of foreign exchange gains and losses for banks.

The proviso now reaffirms that foreign currency exchange gains and losses of a capital nature shall not be assessable or deductible as the case may be in the charge year in which they are translated.

## **2.4 SECTION 34A(2): DEVELOPMENT ALLOWANCE**

Subsection (2) of section 34A provides that taxpayers growing tea, coffee, or banana plants or citrus fruit trees for the first time are permitted to carry forward the development allowance for a maximum period of three years up to the first year of production.

Where the period between the year of planting and the first year of production exceeds three years, there has been a problem in ascertaining in which charge years the allowance will be available for carry forward.

The amendment clarifies that development allowance will be available for carry forward for a period of three consecutive charge years up to the first year of production. The word "consecutive" has therefore, been inserted so as to specify the charge years in which the development allowance will be available for carry forward. The following example illustrates the treatment of development allowance as clarified above:

EXAMPLE:

Fresh - Fruit Estates Company Ltd is growing orange plants for the first time and its first year of production is the fifth year. The company incurred expenditure on the orange plants in the following charge years:

Charge year ended 31 <sup>st</sup> March 1997:	K50, 000
Charge year ended 31 <sup>st</sup> March 1998:	K60, 000
Charge year ended 31 <sup>st</sup> March 1999:	K30, 000
Charge year ended 31 <sup>st</sup> March 2000:	K45, 000
Charge year ended 31 <sup>st</sup> March 2001:	K35, 000

The development allowance under section 34A will be computed as follows:

<u>CHARGE YEAR</u>	<u>EXPENDITURE</u>	<u>ALLOWANCE</u> <u>@ 10%</u>
1996/97	50,000	5,000
1997/98	60,000	6,000
1998/99	30,000	3,000
1999/00	45,000	4,500
2000/01	35,000	3,500

Since the first year of production is 2000/01 charge year, the development allowance for the three consecutive charge years preceding 2000/2001 (i.e. years 1997/98, 1998/99 and 1999/00) will be carried forward to be offset against the income of 2000/01. The total amount of development allowance available for carry forward to 2000/2001 will, therefore, be K13, 500 i.e. (K6, 000 (1997/98) + K3, 000 (1998/99) + K4, 500 (1999/00)). The development allowance of K3, 500 on expenditure incurred in 2000/2001 will also be taken into account in the normal way in the charge year 2000/2001.

## **2.5 SECTION 37A: DEDUCTION FOR SHARE OPTION SCHEME**

The amendment introduces a deduction for expenditure incurred by an employer in the establishment and administration of an approved share option scheme.

This means that all costs incurred by an employer in setting up and administering a share option scheme, which has been approved by the Commissioner General, will be deductible for that charge year.

(N/B: Refer further to Practice Note No. 2/2002 dealing with share options).

## **2.6 SECTION 43C: DEDUCTION FOR MORTGAGE INTEREST**

With effect from 1<sup>st</sup> April 2002, mortgage interest paid on a loan secured by a mortgage on a residential property will no longer be allowed as a deduction against income of an individual.

All claims for mortgage interest relief for the charge year 2002/2003 and subsequent charge years will not be valid.

## **2.7 SECTION 43D: DEDUCTION FOR EMPLOYING PERSONS WITH DISABILITY**

The amendments to this section have the following effects:

- i) The words "handicapped person" have been deleted and replaced with the words "persons with disability". This is to bring it in line with the "Persons with Disabilities" Act of 1996.
- ii) The allowable deduction for employing a person with disability on full time basis has been raised from K240, 000 to K500, 000 for each person employed.

It should be noted that the deduction is only allowable against income earned from business.

## **2.8 SECTION 44: CASE OF NO DEDUCTION**

### **Insertion of new paragraph (i)**

The effect of this amendment is to prohibit the deduction of any expenditure incurred by an employer in the establishment or administration of a share option scheme, which has not been approved by the Commissioner – General.

## **2.9 SECTION 46(2) – RETURNS**

The amendment reaffirms that Income Tax returns should be expressed in Kwacha.

## **2.10 SECTION 46 A**

### **(a) Proviso to Subsection 1**

The individual annual threshold has been raised from K1,440,000 to K1,800,000. This means that only individuals (other than individuals whose income consists entirely of emoluments which are subject to PAYE) earning income above K1,800,000 in a year, will now be required to submit provisional returns.

### **(b) Subsection 2**

The amendment clarifies the requirement for provisional tax returns to be expressed in Kwacha.

## **2.11 SECTION 53 – PUBLIC DOCUMENTS**

The amendment extends the Commissioner – General's power to access electronically stored data.

## **2.12 SECTION 56 – DOCUMENTS IN SUPPORT OF RETURNS**

The amendment reaffirms the requirement that all accounts and other documents which accompany a return should be expressed in Kwacha.

The amendment also reaffirms that taxpayers who are permitted to maintain their books and accounts in U.S dollars should express their accounts and other documents accompanying their returns in Kwacha.

### **2.13 SECTION 58 – PRODUCTION AND PRESERVATION OF BOOKS AND DOCUMENTS**

This amendment extends the Commissioner – General’s power to require the production and preservation of electronically stored data.

### **2.14 SECTION 63 – COMMISSIONER – GENERAL’S POWER TO ASSESS.**

#### **Proviso to Subsection 1**

The proviso to Subsection one has been amended so that the Commissioner- General is prohibited from assessing interest on government bonds from which tax under section 82A has been deducted. The withholding tax on interest on government bonds is thus the final tax.

### **2.15 SECTION 64 – ESTIMATED ASSESSMENTS**

The amendment extends the Commissioner – General’s power to raise estimated assessments where he has reason to believe that the company is to be wound up or liquidated.

### **2.16 SECTION 97 AA – SPECIAL PROVISIONS FOR ISSUING SECURITIES**

#### **Subsections 4:**

The amendment clarifies the definition of “Zambian grouping”.

#### **Subsection 8:**

The amendment corrects drafting errors in the Income Tax (Amendment) Act 2001.

## **2.17 SECTION 104 – COMMISSIONER – GENERAL’S POWER TO SEARCH AND SEIZE**

The amendment extends the Commissioner General’s power to search and seize electronically stored data.

## **2.18 FIRST SCHEDULE - FURTHER CLASSIFICATION OF INCOME**

### **(a) New Paragraph 8:**

The paragraph implies that where an individual disposes shares or options for shares acquired under an approved share option scheme, the difference between the sale proceeds and the cost of acquisition will be deemed to be income.

### **(b) Proviso to Paragraph 8:**

The proviso to paragraph 8 means that relief under Section 21(5) will be granted on income realized from the sale of shares or options provided that:

- (i) The relief under Section 21(5) has not been exhausted by income received under that section (i.e. compensation for loss of office).
- (ii) The income realised from sale of shares or options is received within one year of termination of services.

## **2.19 SECOND SCHEDULE – EXEMPTIONS**

### **(a) Paragraph 5**

The amendment to paragraph 5 extends the exemption from tax of any income of an approved share option scheme.

### **(b) Sub paragraph (L) of paragraph (7)**

The amendment removes the exemption of education allowance for expatriates.

### **(c) New Subparagraph (v) of paragraph (7)**

The new subparagraph introduces the exemption on a benefit which arises to an individual on allotment or acquisition of shares under an approved share option scheme.

### **(d) Subparagraph 1 of paragraph 8**

The effect of the amendment is to remove the exemption of educational passage for expatriate personnel.

It should be noted that commencement, leave and terminal passages for expatriate employees will continue to be exempt.

## **2.20 FOURTH SCHEDULE – APPROVAL OF PENSION FUNDS**

### **Paragraph 2**

Pension payable out of a pension fund or scheme to an employee who has retired may be commuted. The amendment raises the amount of commutable pension from K1 million to K5 million.

## **2.21 SIXTH SCHEDULE – FARMING**

The amendment increases farm improvement allowance on farm dwelling from K1 million to K5 million per unit per year.

## **2.22 EIGHTH SCHEDULE – APPROVED SHARE OPTION SCHEMES**

The eighth schedule introduces provisions on share option schemes.

The objective of the share option scheme is to encourage employers to set up schemes for employees to own shares in the companies in which they are employed. Under the share option scheme, the employer gives an employee a right, known as a share option, to buy a certain number of shares. For the employer and employee to enjoy tax advantages, the scheme will have to be approved by the Commissioner – General. (For more comprehensive coverage, refer to Practice Note 2/2002).

## **2.23 CHARGING SCHEDULE**

### **(a) Subparagraph 1 of paragraph 1 – Tax Credits**

- (i) The tax credit for an individual has been reduced to nil with effect from 1<sup>st</sup> April, 2002.

This means that no tax relief in respect of tax credit will be given against the tax due.

- (ii) Person with disability tax credit has been increased from K 1, 200 to K18,000 per annum.

### **(b) Subparagraph (1) of Paragraph 2:**

The amendment has restructured the tax bands by removing the 10% and 20% bands and replacing them with the following:

The First K1,800,000 @ 0%

Excess above K1,800,000 @ 30%

This means that persons earning up to K150, 000 per month or K1,800,000 per annum will not pay tax.

In the case of persons with disabilities, income earned up to K155, 000 per month or K1,860,000 per annum will be tax free.



**Subparagraph (1) of paragraph 2**

As a result of this amendment, qualifying gratuity payable under Section 21(1) will be taxed as follows:

The First K1,800,000 @ 0%

Excess above K1,800,000 @ 30%

**(c) Subparagraph (1) of paragraph 3:**

The amendment provides for the income of mining companies involved in the production of copper and cobalt to be taxed at 25%.

**(d) Paragraph 6:**

The amendment provides for a zero withholding tax rate on dividends paid by mining companies involved in the production of copper and cobalt.

**(e) Proviso to paragraph 7:**

- (i) The amendment provides for a zero withholding tax rate on interest, royalties and management fees paid by mining companies involved in the production of copper and cobalt.
- (ii) The amendment provides a withholding tax rate of 15% on interest earned on government bonds, which will be the final tax.

It should be noted that any interest earned on government bonds, which is due and payable on or after 01/04/02, will be subject to withholding tax, irrespective of when the bonds were entered into.

## **MINES AND MINERALS (AMENDMENT) ACT 2002**

### **A SUMMARY OF PRINCIPAL CHANGES**

<b>AMENDMENT ACT</b>	<b>ITA</b>	<b>SUBJECT</b>	<b>EFFECTIVE DATE</b>
CLAUSE	SECTION		
1	1	Title and Commencement.	01- 04 – 02
2	2	Introduces the title of “Former Zambia Consolidated Copper Mines (ZCCM) Limited”.	01- 04 - 02
3	66	Reduces the Mineral Royalty rate for former Zambia Consolidated Copper Mines Limited.	01- 04 - 02

## **MINES AND MINERALS (AMENDMENT) ACT 2002**

### **COMMENTARY**

#### **SECTION 2(1): DEFINITIONS**

The definition of "Former Zambia Consolidated Copper Mines Limited" has been introduced to mean, "any mining division or metal treatment operation of Zambia Consolidated Copper Mines Limited sold under the privatization Act".

#### **SECTION 66: ROYALTIES**

Mineral Royalty has been reduced from 2% to 0.6% for former ZCCM companies.

## PROPERTY TRANSFER TAX (AMENDMENT) ACT 2002

### A SUMMARY OF PRINCIPAL CHANGES

<b>AMENDMENT ACT</b>	<b>ITA</b>	<b>SUBJECT</b>	<b>EFFECTIVE DATE</b>
CLAUSE	SECTION		
1	1	Title and Commencement.	01- 04 – 02
2	2	Amendment replaces definition of "Commissioner" with "Commissioner – General"	01- 04 - 02
3	3(1)&(2)	Amendment removes reference to "Commissioner" and replaces it with "Commissioner – General"	01- 04- 02
4	5	Amendment removes reference to "Commissioner" and replaces it with "Commissioner – General"	01- 04- 02
5	9	Amendment removes reference to "Commissioner" and replaces it with "Commissioner – General"	01- 04- 02

## **PROPERTY TRANSFER TAX (AMENDMENT) ACT 2002**

### **COMMENTARY**

#### **SECTION 2: INTERPRETATION**

The definition of Commissioner has been deleted and replaced with "Commissioner – General" to bring it in line with the provisions of the Zambia Revenue Authority Act.

#### **SECTION 3,5 and 9:**

The above sections have been amended by removing references to "Commissioner" with "Commissioner – General" so as to bring them in line with the provisions of the Zambia Revenue Authority Act.

## **4. OTHER MATTERS**

### **4.0 TAXATION OF BENEFITS**

#### **4.1 Payment of employees' bills**

Where an employer, discharges the liability of an employee by paying, for example, his or her rent, electricity, telephones or 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.

#### **4.2 Benefits that cannot be converted into cash:**

Benefits, which cannot be converted into cash, are not taxable on employees but 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.
- (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 (1800cc and above)  
K200,000 per month or K2.4 million per annum.
  - (ii) Other cars (below 1800cc):  
K120, 000 per month or K1, 440, 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.

### **4.3 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., electricity, telephone, and water allowances.

### **4.4 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:

❖ **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), 2<sup>nd</sup> Schedule).

❖ **Labour Day Awards:**

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

❖ **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).

❖ **Funeral Expenses:**

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

❖ **Sitting allowances for Councillors:**

Payments by Local Authorities to Councillors as Sitting Allowances are exempt (ITA 2<sup>nd</sup> Schedule Para. 7(s)).

#### **4.5 TAX TREATMENT OF EXPENSES INCURRED ON ENTERTAINMENT, HOSPITALITY AND GIFTS:**

Expenses incurred in entertainment, hospitality and gifts are not allowable, subject to a few exceptions. The following are the 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 on 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 on this without any deduction 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.

#### **4.6 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 Cap 323, the whole expenditure on refreshments, canteen meals, etc. is disallowable on the employer.



#### **4.7 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.

#### **4.8 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 K5 million exemption under section 21(5) of the ITA Cap 323.

#### **4.9 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;
  - Qualifying gratuity is taxed at the graduated rates of tax,
    - First K1, 800, 000 @ 0%
    - The balance @ 30% (As from 1<sup>st</sup> April 2002)
  - 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.

Refer to our Leaflet No.3 on Taxation of Gratuities Under PAYE for more details.

#### **4.10 REDUNDANCY / RETRENCHMENT EARLY OR NORMAL RETIREMENT**

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 K5 million is exempt from tax
- The balance is taxed at 10%
- The refund of pension contributions is taxed as a lump sum payment at the rate of 10% (section 82)

#### **4.11 NORMAL RETIREMENT**

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

- (i) Salary
- (ii) Leave pay
- (iii) Repatriation pay
- (iv) Pension from an approved pension fund (Fourth schedule ITA)
- (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 K5 million is exempt from tax (with effect from 01/04/2002)
  - the balance is taxed at 10%
- Pension is exempt from tax (2<sup>nd</sup> schedule ITA).

#### **4.12 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 are taxed under PAYE in the month in which payments are made.
- Gratuity is taxed as in paragraph 4.9 (ii) above.
- 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 in 4.11 above.

#### **4.13 TAX TREATMENT OF LEAVE PAY AND SALARY IN LIEU OF NOTICE (Effective 01/04/02)**

All employers should take note that Leave Pay and Salary in Lieu of Notice received on either resignation, dismissal, expiry of contract, redundancy or retrenchment, early or normal 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, Cap 323. Payments made in such cases should be subjected to tax under the PAYE scheme in the normal way.

#### **4.14 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.

#### **4.15 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.

#### **4.16 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 (Cap 323).

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 (see pages 25,26, and 27).

#### 4.11 INCOME TAX RATES

##### (a) Personal Income Tax Rates:

Personal Income tax rates, with effect from 1<sup>st</sup> April 2002, are as follows:

<b>Chargeable Income per annum</b>		<b>Tax Rate</b>
First K1,800,000	@	0%
Balance over K1,800,000	@	30%

##### (b) Company Tax Rates:

On income from LUSE listed companies	@	30%
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) Withholding Tax Rates:

###### (i) Individuals:

Dividends (final tax)	@	15%
Interest (final tax)	@	25%
Royalties, Management and Consultancy Fees	@	15%
Rents	@	15%
Commissions	@	15%

**(ii)**      Persons other than individuals

Dividends (final tax)	@	15%
Interest (not final tax)	@	15%
Royalties, Management and consultancy Fees	@	15%
Commissions	@	15%

Other payments

Non resident contractors	@	15%
Public Entertainment Fees (Non residents only)	@	15%

## **5.0 CONTACT US:**

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

- |   |   |
|---|---|
| <b>1. Advice Centre<br/>Revenue Hall<br/>Private Bag W136<br/>LUSAKA</b>                    | <b>2. Assistant Commissioner<br/>Lusaka "A" Tax Office<br/>P.O. Box 31026<br/>LUSAKA</b>  |
| <b>Tel: 01 - 226227/236227<br/>Fax 222717</b>   | <b>Tel: 01 - 221497</b>   |
| <b>3. Assistant Commissioner<br/>Lusaka "B" Tax Office<br/>P.O. Box 31936<br/>LUSAKA</b>    | <b>4. Assistant Commissioner<br/>Lusaka "C" Tax Office<br/>P.O. Box 31988<br/>LUSAKA</b>  |
| <b>Tel: 01 – 221496</b>   | <b>Tel: 01 - 236892</b>   |
| <b>5. Assistant Commissioner<br/>Ndola Tax Office<br/>P.O. Box 70181<br/>NDOLA</b>          | <b>6. Assistant Commissioner<br/>Kitwe Tax Office<br/>P.O. Box 20855<br/>KITWE</b>        |
| <b>Tel: 02 – 614096</b>   | <b>Tel: 02 - 229942</b>   |
| <b>7. Assistant Commissioner<br/>Lusaka Taxes Central Unit<br/>P.O Box 35710<br/>LUSAKA</b> | <b>8. Assistant Commissioner<br/>DT Investigations Unit<br/>P.O. Box 35710<br/>LUSAKA</b> |
| <b>Tel: 01 – 224935</b>   | <b>Tel: 01 - 235252</b>   |
| <b>9. Station Manager<br/>Kabwe Tax Office<br/>P.O. Box 80909<br/>KABWE</b>                 |   |
| <b>Tel: 05 – 223642</b>   |   |



- |   |  |
|---|--|
| <p><b>10. Station Manager<br/>Chipata Tax Office<br/>P.O. Box 510632<br/>CHIPATA</b></p> <p><b>Tel: 062 – 21155</b></p> | <p><b>11. Station Manager<br/>Mongu Tax Office<br/>P.O. Box 910110<br/>MONGU</b></p> <p><b>Tel: 07 - 221662</b></p>            |
| <p><b>12. Station Manager<br/>Kasama Tax Office<br/>P.O. Box 410728<br/>KASAMA</b></p> <p><b>Tel: 04 – 221810</b></p>   | <p><b>13. Station Manager<br/>Mansa Tax Office<br/>P.O. Box 710112<br/>MANSA</b></p> <p><b>Tel: 08 - 821147</b></p>            |
| <p><b>14. Station Manager<br/>Solwezi Tax Office<br/>P.O. Box 110368<br/>SOLWEZI</b></p> <p><b>Tel: 08 – 821633</b></p> | <p><b>15. Station Manager<br/>Livingstone Tax Office<br/>P.O. Box 60597<br/>LIVINGSTONE</b></p> <p><b>Tel: 03 - 320772</b></p> |

