ZAMBIA REVENUE AUTHORITY

Working To Serve You Efficiently

DOMESTIC TAXES DIVISION

PRACTICE NOTE NO. 1/2012

ZAMBIA REVENUE AUTHORITY
Working To Serve You Efficiently

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1.0 FOREWORD

This **PRACTICE NOTE** describes the various changes introduced by the:

1. Income Tax (Amendment) Act No. 27 of 2011,
2. Statutory Instrument No. 131 of 2011 (Pay As You Earn Regulations),
3. The Value Added Tax (Amendment) Act No. 30 of 2011,
4. Statutory Instrument No. 132 of 2011(VAT Exemption Order),
5. Statutory Instrument No. 133 of 2011(Zero Rating Order),
6. Gazette Notice No. 553 of 2011 (VAT General Rules) and
7. The Mines and Minerals Development (Amendment) Act No. 28 of 2011.

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

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

Inquiries may be made at the nearest office of the Zambia Revenue Authority, Domestic Taxes Division or Client Service Centres, in Lusaka and Kitwe.

Berlin Msiska

COMMISSIONER-GENERAL

PART I: SUMMARY OF AMENDMENTS

2.0 THE INCOME TAX ACT (ITA)

ITA Section	Subject
1	Title and commencement
2	(a) Amends the definition of “business” (b) Amends the definition of “charge year”
18	Introduces provisions to deem commissions paid to non resident persons to have a source within the Republic.
30A	Removes the reference to Section twenty -three of the repealed Mines and Minerals Act.
33	Removes the reference to Section twenty-three of the repealed Mines and Minerals Act.
45B	Removes the requirement by any person to furnish the Registrar of Patents and Companies Registration Agency (PACRA) with a Taxpayer Identification Number (TPIN) before registration
46	Changes the due date for submission of annual return
46A	Changes the due date for submission of return of provisional income
62	Allows the Commissioner General to accept business accounts prepared on a date other than 31st December
63	Includes commission paid to non resident persons to the class of payments that the Commissioner General is not allowed to assess
77	Changes the due dates for payment of balance of tax and payment of provisional tax
81B	Assigns the meaning of property in the Income Tax Act to the one in the Property Transfer Tax Act
82A	Provides for the taxation of commission paid to non resident persons
100	Introduces specific penalties for submission of incorrect return and other documents for turnover tax.

Charging Schedule Para	
2(1)(c)	Increases the income band taxable at zero per centum for individuals by K 12,000,000 per annum
2(1)(d)	Increases the income band taxable at twenty - five per centum for individuals by K780, 000 per annum.
2(1)(e)	Increases the income band taxable at 30 per centum for individuals by K5,220,000 per annum.
2(1)(f)	Increases the income band taxable at thirty -five per centum for individuals by K18,000,000 per annum.
3(c) and (d))	Reduces the corporate tax rate for banks to thirty-five per cent per annum
5(b)	Reduces the tax rate on farming income to ten per cent per annum

3.0 PAY AS YOU EARN REGULATIONS

Statutory Instrument number 131 of 2011

Subject

(a) Aligns Pay As You Earn regulations with the new income tax charge year

(b) Changes the start date of a charge year for Pay As You Earn from 1 April to 1st January.

(c) Changes the due date for submission of Pay As You Earn annual return from “before 1st June” to “before 1st March”.

(d) Changes the reference to the tax tables from September to the month of June in the case of emoluments payable half yearly.

4.0 THE VALUE ADDED TAX (VAT) ACT

VAT Act Section	Subject
1	Title and commencement
2	Amends the definition of "Accounting Year"

5.0 THE FIRST SCHEDULE OF VALUE ADDED TAX ACT

Statutory Instrument number 132 of 2011	Subject
	(a) Reinstates the exemption of education services provided to post secondary school learners
	(b) Reinstates the exemption of transportation of persons by road

6.0 THE SECOND SCHEDULE OF VALUE ADDED TAX ACT

Statutory Instrument number 133 of 2011	Subject
	Provides an appropriate title for group 8

7.0 THE VALUE ADDED TAX GENERAL RULES

Gazette Notice number 553 of 2011	Subject
	Removes copper and cobalt ores and concentrates from the import VAT deferment scheme

8.0 THE MINES AND MINERALS DEVELOPMENT (M&MD) ACT

M&MD Act Section	Subject
	Title and commencement
1	Revises the rates of mineral royalty payable on base metals, industrial minerals, energy minerals, precious metals and gemstones

PART II: COMMENTARY ON AMENDMENTS

9.0 THE INCOME TAX ACT

9.1 SECTION 1: TITLE AND COMMENCEMENT

The amendments to the Income Tax Act shall come into effect on 1st April 2012.

9.2 SECTION 2: INTERPRETATION

The definitions of the following terms have been amended in Section 2:

9.2.1 Business – the definition of "business" has been amended by the inclusion of the word "hedging"

For tax purposes, hedging income (profits/losses) should be accounted for separately from income generated from other activities that a business carries on.

9.2.2 Charge year – the definition of "charge year" has been amended to mean a period of twelve months ending on 31st December.

Following this amendment, the charge year has now been aligned with the Government's fiscal year which runs from 1st January to 31st December. However, the charge year ending on 31st December 2012 shall run for a period of only nine months commencing on 1st April 2012.

The charge year ending 31st March 2012 shall be referred to as the 2011/2012 charge year while the charge year ending 31st December 2012 shall be referred to as the 2012 charge year. Subsequent charge years shall be referred to as 2013 charge year, 2014 charge year, 2015 charge year etc.

9.3 SECTION 18: INCOME DEEMED WITHIN THE REPUBLIC

Section Eighteen of the principal Act is amended in Sub section (1) by the insertion of a new paragraph (i) providing for deeming of commissions paid to non-resident persons to have a source within the Republic.

This amendment introduces provisions to deem commission payments made to non-resident persons as income that has a source in Zambia and therefore taxable at the withholding tax rate of fifteen per cent and it shall be the final tax.

Effective 1st April 2012, income deemed to have a source within Zambia will include commissions in addition to management or consultancy fees, interest, and royalties paid to non-resident persons.

9.4 SECTION 30A: INDEXATION OF LOSSES

The principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

"The losses to be deducted by a person carrying out any mining operations and keeping books of accounts in United States dollars under subsection (3) of section fifty-five shall be indexed losses"

This amendment removes the reference to Section twenty-three of the repealed Mines and Minerals Act and makes correct reference to Section 55(3) of the Income Tax Act. Previously only mining companies holding large scale mining licences and carrying on mining of base metals were allowed to index their losses. This amendment now allows a person carrying out any mining operations and keeping their books of accounts in United States dollars as per section 55(3) to index their losses.

9.5 SECTION 33: CAPITAL ALLOWANCES

Section thirty-three of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following:

"The capital allowances to be claimed by a person carrying out any mining operations and keeping books of accounts in United States dollars under subsection (3) of section fifty-five shall be indexed capital allowances"

This amendment removes the reference to Section twenty-three of the repealed Mines and Minerals Act and makes correct reference to section 55(3) of the Income Tax Act. Previously only mining companies holding large scale mining licences and carrying on mining of base metals were allowed to index their capital allowances. This amendment now allows a person carrying out any mining operations and keeping their books of accounts in United States dollars as per section 55(3) to index their losses.

9.6 SECTION 45B: TAXPAYER IDENTIFICATION NUMBER REQUIRED FOR CERTAIN TRANSACTIONS

Section forty-five B of the principal Act is amended in subsection (1) by the deletion, in columns 1 and 2, of the words "Registrar of companies and business names" and " Registration of companies and business names" respectively.

This amendment removes the requirement by any person that is registering a company or business name to furnish the Registrar of Patents and Companies Registration Agency (PACRA) with a Taxpayer Identification Number (TPIN) before such a company or business name is registered.

Following this amendment, any person wishing to obtain a Taxpayer Identification Number (TPIN) will be required to register with PACRA prior to application for TPIN.

9.7 SECTION 46: RETURNS GENERALLY

Section forty-six of the principal Act is amended in subsection (3) by the deletion of the words "30th September" and the substitution therefor of the words "30th June"

This amendment changes the due date for the submission of the annual return of income following change of charge year.

The due date for the charge year ending 31st March 2012 remains 30th September 2012, while the due date for the charge year ending 31st December 2012 and subsequent charge years shall be 30th June.

9.8 SECTION 46A: PROVISIONAL INCOME

The following two amendments have been made to Section forty-six A:

i) Section forty-six A of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following:

(3) The return of provisional income referred to in subsection (2) shall be furnished-
(a) in any charge year, not later than the 31st March of the charge year to which the return relates; and
(b) in the charge year ending 31st December, 2012, not later than 30th June, 2012:

Provided that where during the course of the charge year, any person discovers that the return of provisional income furnished under this section is likely to be substantially incorrect because of changed circumstances, such person shall furnish a revised return of provisional income and in such a case, any alteration in the amount of estimated tax payable shall be taken into account in the next instalment, pursuant to section seventy-seven, immediately following the date of such revised return.

ii) Section forty-six A of the principal Act is amended by the deletion of subsection (4) and the substitution therefor of the following:

(4) Where an individual is not required to make a return of provisional income and tax-
(a) for any charge year; and
(b) for the charge year ending 31st December, 2012:
by virtue of the proviso to subsection (1), but at a time subsequent to 31st March in that year, and in the case of paragraph (b), at the time subsequent to 30th June 2012, that proviso ceases to apply to the individual, that individual shall make a return in accordance with subsections (1) and (2) within fourteen days of the proviso ceasing to apply to that individual.

This amendment changes the due date for submission of return of provisional income from 30th June to 31st March. However, the provisional returns for the charge year ending on 31st December 2012 shall be furnished not later than 30th June 2012.

This means that taxpayers will still have 3 months following the beginning of the charge year in which to submit provisional returns.

9.9 SECTION 62: BUSINESS ACCOUNTS

Section sixty-two of the principal Act is amended in subsection (3A) by the deletion of the words "31st March" and the substitution therefor of the words "31st December".

This amendment aligns the accounting date to the new charge year of January to December. Therefore, all taxpayers are required to prepare business accounts up to the date ending 31st December.

However, all taxpayers (including those with earlier non 31st March accounting dates approval) who wish to opt for a non 31st December accounting date shall be required to apply for approval under section 62 and the Commissioner General may consider such applications.

ILLUSTRATION:

Taxpayers shall be required to prepare business accounts for the transitional year as follows:

TABLE 1: MIGRATION TO NEW ACCOUNTING DATE

Current Accounting period year End	Transitional Accounting Period	No. of months in Accounting Period	Charge year	Year of submission of final Income Tax Return
31st March	1st April 2012 to 31st Dec 2012	9	2012	2013
31st December	1st Jan 2012 to 31st Dec 2012	12	2012	2013
30th September	1st Oct 2011 to 31st Dec 2012	15	2012	2013
30th June	1st July 2012 to 31st Dec 2012	6	2012	2013

N.B. Capital allowances shall be granted in full for all charge years irrespective of the number of months therein.

Where the Commissioner General approves a non 31st December accounting date, business accounts will be prepared as follows:

TABLE 2: TAXPAYERS NOT MIGRATING TO NEW ACCOUNTING DATE (UPON APPROVAL OF NON 31ST DECEMBER ACCOUNTING DATE)

Current Accounting period year End	Accounting Period	No. of months in Accounting Period	Charge year	Year of submission of final Income Tax Return
31st March	1st April 2012 to 31st Mar 2013	12	2012	2013
30th September	1st Oct 2011 to 30th Sept 2012	12	2012	2013
30th June	1st July 2012 to 30th June 2013	12	2012 & 2013	2014

Other non 31st December accounting dates that are not covered by the above illustration shall be dealt with on a case by case basis.

N.B. For the charge year ending 30th June 2013, the accounts will be apportioned into two charge years each of which will be made up of six (6) months and capital allowance will be granted in full for both charge years.

9.10 SECTION 63: COMMISSIONER-GENERAL'S POWERS TO ASSESS

Section 63 has been amended to include commission paid to non-residents to the class of payments that the Commissioner-General is not allowed to assess.

This means that the withholding tax paid shall be the final tax.

9.11 SECTION 77: WHEN TAX DUE IS PAYABLE

Section 77 has been amended to change the due dates for payment of balance of tax and payment of provisional tax.

The following amendments have been made to section seventy-seven:

(a) Section seventy-seven of the principal Act is amended in subsection (1) by the deletion of the words "30th September" and the substitution therefor of the words "30th June"

(b) Section seventy-seven of the principal Act is amended by the deletion of subsection (1C) and the substitution therefor of the following subsection:

"(1C) Provisional tax for any charge year required to be paid under subsection (1B) shall be paid during the charge year in four instalments, each one of which shall be equal to one quarter of the amount of provisional tax shown in the return and shall be paid as follows:

(a) 1st instalment, on 31st March;
(b) 2nd instalment, on 30th June;
(c) 3rd instalment, on 30th September; and
(d) 4th instalment, on 31st December;

of the charge year to which such return of provisional income relates;

(c) Section seventy-seven of the principal Act is amended by the insertion immediately after subsection (1C) of the following new subsection:

"(1D) Notwithstanding subsection (1C), provisional tax required for the charge year ending 31st December 2012, liable to be paid under subsection (1B), shall be paid during the charge year in three instalments, each one of which shall be equal to one third of the amount of provisional tax shown in the return and shall be paid as follows:

(a) 1st instalment, on 30th June 2012
(b) 2nd instalment, on 30th September 2012; and
(c) 3rd instalment, on 31st December 2012

(d) Section seventy-seven of the principal Act is amended by the deletion in subsection (2B), of paragraphs (a) and (b) and the substitution therefor of the following:

(a) in any charge year-
- *(i) be made in instalments on the dates specified in subsection (1C); and*
- *(ii) be equal in amount to the amount of provisional tax shown in the return divided by four; and*

(b) in the charge year ending 31st December, 2012-
- *(i) be made in instalments on the dates specified in subsection (1D); and*
- *(ii) be equal in amount to the amount of provisional tax shown in the return divided by three:*

Provided that where an instalment payment has been made before an instalment of a revised amount is due under this subsection, the amount of that revised instalment shall be increased or reduced, as the case may require, to take into account the excess or shortfall in the earlier payment or payments;

For the charge year ending 31st December 2012, the provisional tax payments shall be determined by dividing the amount of provisional tax shown in the return by three.

For example:
Mr. K has filed in a return of provisional income and declared his total provisional tax as K180, 000,000, his provisional tax payments shall be determined as follows:

$\frac{\text{Total provisional income}}{3} = 180{,}000{,}000/3 = 60{,}000{,}000$ per instalment

9.12 SECTION 81B: TAX CLEARANCE CERTIFICATE

The amendment assigns the meaning of property in the Income Tax Act to the one in the Property Transfer Tax Act Cap 340.

Section eighty-one B of the principal Act is amended in subsection (7) by the deletion of the definition of "property" and the substitution therefor of the following definition:

"property" has the meaning assigned to it in the Property Transfer Tax Act

This amendment removes the requirement to update the Income Tax Act each time there is an amendment to the definition of "property" in the Property Transfer Tax Act Cap 340.

9.13 SECTION 82A: DEDUCTION OF TAX FROM CERTAIN PAYMENTS

Section eighty-two A of the principal Act is amended by the inclusion of the following additional paragraph (f):

(f) commission deemed under section eighteen to be from a source within the Republic;

This amendment provides for the taxation of commission paid to non resident persons at the withholding tax rate of fifteen per cent which shall be a final tax.

9.14 SECTION 100: PENALTY FOR INCORRECT RETURNS ETC

Section one hundred of the principal Act is amended in subsection (1) by the insertion of a new sub-paragraph (ii):

(ii) In relation to a person liable to pay turnover tax-

(A) in the case of negligence, one point five percent of the amount;

(B) in the case of wilful default, three percent of the amount; and

(C) in the case of fraud, four point five percent of the amount;

of any income omitted or understated, in consequence of such failure or incorrect return"

The amendment revises penalties for submission of incorrect turnover tax returns to 1.5%, 3%, and 4.5% for negligence, wilful default and fraud respectively.

9.15 CHARGING SCHEDULE

RATES OF TAX –

(a) PAY AS YOU EARN - Paragraph 2(1) (c),(d),(e) and (f):

The amendment increases the income band taxable at zero per centum for individuals from K1, 000,000 to K 2,000,000 per month but shall not exceed K18, 000,000 for the charge year 2012 as shown in table 3 below:

TABLE 3: COMPARISON OF PERSONAL INCOME TAX BANDS

2012 CHARGE YEAR (9 months) Income Bands	2011/2012 CHARGE YEAR Income Bands	Rates
First K18, 000,000	First K12,000,000	@ 0%
Above K18, 000, 000 up to K25, 200, 000	Above K12, 000, 000 up to K20,820, 000	@ 25%
Above K25, 200, 000 up to K51, 300, 000	Above K20,820, 000 up to K50, 400, 000	@ 30%
Above K51, 300, 000	Above K50,400, 000	@ 35%

This means that an individual who earns up to K2, 000,000 per month or up to K24, 000, 000 per annum shall not pay Income Tax. The annual income bands shall be as follows:

TABLE 4: ANNUAL PERSONAL INCOME TAX BANDS

Income Bands	Rates
First K24, 000,000	@ 0%
Above K24, 000, 000 up to K33,600, 000	@ 25%
Above K33, 600, 000 up to K68, 400, 000	@ 30%
Above K68, 400, 000	@ 35%

CALCULATION OF GRATUITY

The amendment increases the exempt amount for qualifying gratuity from K 12,000,000 to K24, 000,000 per annum. However, for the charge year 2012 the amount shall be K18,000,000 for the nine months from April to December

(a) COMPANIES - Paragraph 3(b), (c) and (d):

This amendment revises the corporate tax rate for banks to thirty-five per cent per annum.

Prior to this amendment, there were two income tax rates applicable to banks as follows:

i) Taxable income below K 250,000,000 was taxed at the rate of thirty-five per cent per annum.
ii) Taxable income above K 250,000,000 was taxed at forty per cent per annum.

(b) SPECIAL CASES - Paragraph 5(b):

This amendment reduces the tax rate on farming income to ten per cent per annum.

Prior to this amendment, taxable income from farming was taxed at the rate of fifteen per cent per annum.

Individuals involved in farming business will enjoy the tax free income of K24 million of their income with the balance taxed at 10%.

10 STATUTORY INSTRUMENT NUMBER 131 OF 2011 THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT) REGULATIONS

The principal regulations are amended by:

a) the deletion of the word “April” wherever it appears and the substitution therefor of the word “ January”
b) the deletion of the word “March” wherever it appears and the substitution therefor of the word “December”
c) the deletion of the word “June” wherever it appears and the substitution therefor of the word “March” and
d) the deletion of the word “September” wherever it appears and the substitution therefor of the word “June”

These changes align the Pay As You Earn regulations with the new income tax charge year. For Pay As You Earn purposes, month 1 changes from April to January and month 12 changes from March to December respectively.

The due date for Pay As You Earn annual return changes from before "1st June" to before "1st March".

For emoluments payable half yearly, the reference to the tax tables changes from September to the month of June.

11 THE VALUE ADDED TAX ACT

11.1 SECTION 1: TITLE AND COMMENCEMENT

All amendments to the Value Added Tax Act shall come into effect on 1st January 2012.

11.2 SECTION 2: INTERPRETATION

Section 2 of the Principal Act is amended by the deletion of the definition of "accounting year" and the substitution therefor of the following:

11.2.1 ***"Accounting Year" means a period of twelve months ending on 31st December or such other period as the Commissioner General may prescribe.***

The amendment seeks to align the accounting year for VAT to the fiscal year for Government, which is 1st January to 31st December. Prior to this amendment, the VAT accounting year covered the period1st July to 30th June.

12.0 STATUTORY INSTRUMENT NUMBER 132 OF 2011 VALUE ADDED TAX (EXEMPTION) AMENDMENT ORDER12.1 GROUP 3 – EDUCATIONAL SERVICES

Paragraph (b) has been amended to read as follows:

"educational services provided to post-secondary learners."

The amendment re-instates the exemption of education services provided to post- secondary school learners.

12.2 GROUP 5 – TRANSPORTATION SERVICES

The group has been amended to read as follows:

(a) Transportation of persons by air;
(b) Transportation of person by rail;
(c) Transportation of persons by road on a bus or coach licensed under the Road Traffic Act, 2002, having a seating capacity of fourteen or more persons;
(d) Transportation of persons by boat; and
(e) Aircrafts licensed to carry passengers.

This amendment re-instates the exemption of transportation of persons by road.

12.3 GROUP 14 – ROAD CONSTRUCTION AGREEMENTS

Group 14 which provided for exemption of road construction agreements entered into with the Government of the Republic of Zambia prior to 1st July 1995 has been deleted.
All road construction agreements entered into with the Republic of Zambia prior to 1st July are no longer in force and therefore Group 14 is now redundant.

13.0 STATUTORY INSTRUMENT NUMBER 133 OF 2011 VALUE ADDED TAX (ZERO RATING) AMENDMENT ORDER

GROUP 8 – AGRICULTURAL EQUIPMENT AND ACCESSORIES

The Second schedule to the principal order is amended in paragraph 2 by the deletion in the heading of Group 8, of the word “spares” and the substitution therefor of the word “accessories”

The amendment provides an appropriate title for group 8

14.0 THE VAT GENERAL RULES

14.1 GAZETTE NOTICE NUMBER 553 OF 2011

Third schedule to Rule 21 is amended by the deletion of the following:

HS Code	Description
2603.00.00	Copper ores and concentrates
2605.00.00	Cobalt ores and concentrates

The amendment removes copper and cobalt ores and concentrates from the import VAT deferment scheme

15.0 THE MINES AND MINERALS DEVELOPMENT ACT

15.1 SECTION 1: TITLE AND COMMENCEMENT

All amendments to the Mines and Minerals Development Act shall come into effect on 1st April 2012.

15.2 SECTION 133: ROYALTIES AND CHARGES

Section one hundred and thirty three of the principal Act is amended in subsection (1) by the deletion of the words “three” and “five” wherever they appear, and the substitution therefor of the word “six”

The amendment increases the rate of mineral royalty payable:

a) on base metals, industrial minerals and energy minerals from three per cent to six per cent
b) on precious metals and gemstones from five per cent to six per cent.

PART III: OTHER MATTERS

16.0 VAT ON INSURANCE

All insurance services are standard rated except:

a) the arrangement or provision of ownership of any life policy;
b) the arrangement or provision of re-insurance;
c) the arrangement, provision or transfer of ownership of any insurance contract underwritten before 1st January 2011.

All taxable suppliers involved in the supply of taxable insurance services are required to account for VAT on the supply of such services.

16.1 ACCOUNTING FOR VAT BY INSURANCE BROKERS AND AGENTS

An insurance agent or broker will usually be involved in at least two separate supplies at any one time:

(i) Supply of insurance policy arranged by the insurance agent or broker which are made between the insurer and the insured; and

(ii) Supply of insurance agency or brokerage services to the principal for which a commission or fee is charged.

It is important to distinguish between the services rendered by the insurance agent or broker and the supply which the insurance agent or broker is arranging for the principal. The accounting for VAT by insurance agents and brokers will be determined by the way they transact with their principal:

a) Insurance agents and brokers issuing invoices for insurance premiums

Insurance agents and brokers, who issue their tax invoices to the insured for the premiums shall account for output tax to Zambia Revenue Authority on those invoices. Their input tax claims will include corresponding tax on invoices received from the insurance companies provided both the seller and agent are registered for VAT and the supplies are taxable.

b) Accounting for VAT on commission earned by insurance agents and brokers

Insurance agents and brokers should issue tax invoices for commissions/ fees earned. Their input tax claim will include tax on invoices received from their suppliers.

Illustrations:

Insurance company Y sells a policy for K 1,000,000 net of VAT to M Limited who is a VAT registered supplier. Insurance company Y uses an agent X who acts in their own name. The agent takes a commission of 10%.

Agent X must issue a tax invoice to M Limited, showing:

Insurance Premium	K1, 000,000
VAT	160,000
Total	K1, 160,000

Agent X accounts for K 160,000.00 to Zambia Revenue Authority as output tax. Company M may reclaim K 160,000 as input tax.

Insurance company Y must issue a tax invoice to agent X showing:

Insurance Premium	K 1,000,000
VAT	160,000
Total	K1, 160,000

Insurance company Y accounts for K 160,000 to ZRA as output tax. Agent X may reclaim K 160,000 as input tax.

Agent X must also issue a tax invoice to insurance company Y for the agency services showing:

Commission at 10%	K 100,000
VAT at 16%	16,000
Total	K 116,000

Agent X accounts for K 16,000 to ZRA as output tax. Insurance company Y can reclaim input tax of K 16,000

In this example, the amount of money that passes between the agent X and Insurance Company Y may be only K 1,044,000 since agent X might deduct his commission from the amount collected from the buyer, paying the balance to the principal. But the full VAT invoicing procedure explained above must still be followed. The net tax effect of these transactions on the insurance company and agent will be as follows:

	Agent X VAT Account	Insurance Company Y VAT Account
Output Tax on Insurance	160,000	160,000
Output Tax on Commission	16,000	0
Input Tax on Insurance	(160,000)	(160,000)
Input Tax on Commission		(16,000)
Net position	16,000	(16,000)

16.2 SUBMISSIONS OF VAT RETURNS

All registered suppliers are required under the VAT Act - Section 16(3) to submit returns on monthly basis unless the Commissioner General by notice in writing to a particular supplier determines another accounting period. Insurance companies, brokers and agents, (like any other taxable suppliers) wishing to use an extended tax period shall make an application to the Commissioner General for approval.

Where an extended period has been granted, the due date for submission of the return shall be twenty-one (21) days after the end of the extended tax period. For instance, a return for the extended period covering 1st January 2012 to 31st March 2012, shall be due on or before 21st April 2012. Tax due on this return, shall also be payable on or before 21st April 2012.

Note: The guidance provided in this Practice Note takes effect from 1st January 2012 and all transactions relating to prior periods will be guided by Practice Note number 1 of 2011.

17. MISCELLANEOUS

17.1 TAXATION OF BENEFITS

17.1.1 Payment of Employees' Bills

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

17.1.2 Benefits that cannot be converted into Cash

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

(a) In the case of free residential accommodation provided by an employer in a house owned or leased by the employer, the cost to be disallowed in the employer's tax computation is 30% of the taxable income paid to the employee. Payments for utilities such as electricity, telephones, water bills, security and similar payments are not included in the meaning of free residential accommodation.

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

(i) **Luxury Cars** (2800cc and above) K20, 000,000 per annum.

(ii) **Other Cars**

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

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

17.2 EMOLUMENTS THAT ARE NOT SUBJECT TO PAYE

The following emoluments are exempt or otherwise not chargeable to income tax and, consequently, need not be included in the 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 regarded by ZRA as non-taxable.

17.3 TAX TREATMENT OF 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, ashtrays, spirits, food, and other such like, as long as the cost of the gift(s) to any one person does not exceed K100, 000 in a charge year. The cost of gifts in excess of K100, 000 to the same person is disallowable.*

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

b) 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.

17.4 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.

17.5 PAYMENTS ON CESSATION OF EMPLOYMENT

Payments on cessation of employment fall into the following categories;

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

(a) DISMISSAL OR RESIGNATION OF AN EMPLOYEE

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

i. Emoluments (i.e. salary, wage, overtime, leave pay, commission, bonus, fee and such like),
ii. Cash in lieu of leave (leave days due but not taken),
iii. Salary in lieu of notice,
iv. 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 K35 million exemption under Section 21(5) of the Income Tax Act.

(b) EXPIRY OF EMPLOYMENT CONTRACT

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

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

These payments are taxed as follows:

- Leave pay, repatriation pay and the salary are added and taxed under PAYE with respect to the tax table applicable for the month in which payment is made.

- Qualifying gratuity paid is taxed as follows:

Table 5

Qualifying Gratuity Bands	Rates
First K24,000,000	@ 0%
Above K24,000,000	@ 25%

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.

NOTE: For the 2012 charge year that shall run for 9 months, qualifying gratuity shall be calculated in accordance with subparagraph (2A) of paragraph (2) of the Charging schedule as follows:

Table 6

Qualifying Gratuity Bands	Rates
First K18,000,000	@ 0%
Above K18,000,000	@ 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 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 K35 million is exempt from tax and the balance is taxed at 10%

- The refund of employee's pension contribution is taxed as a lump sum payment at the rate of 10% (Section 82).

- The refunded employer's pension contribution 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;
(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 K35 million is exempt from tax and the balance is taxed at 10%;
  - Pension is exempt from tax (Paragraph 7(q) of 2nd schedule to the Income Tax Act).

(a) 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.
(vi) Pension

The above payments are taxed as follows:

- The salary up to date of death and leave pay is taxed under PAYE in the month in which payments are made.
- Gratuity is taxed as in paragraph 17.5(b) above.
- Ex-Gratia payments are exempt from tax.
- Accrued service bonus is taxed as follows: The first K35m is exempt from tax and the balance is taxed at 10%.
- The tax treatment of pension is the same as for early or normal retirement in 17.5(d) above.

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

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

17.7 LUMPSUM PAYMENTS MADE ON MEDICAL GROUNDS

Where the employer, on medical advice, determines that an employee is permanently incapable of discharging his/her duties through infirmity of mind or body, one 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.

17.8 TAX TREATMENT OF SETTLING IN ALLOWANCES

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

17.9 SEVERANCE PAY

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

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

18. INCOME TAX RATES

(a) Personal Income Tax Rates:

Personal Income tax rates for the charge year ending 31st December 2012 are as follows:

Table 7

Income Bands	Rates
First K18,000,000	@ 0%
Above K18,000,000 up to K25,200,000	@ 25%
Above K25,200,000 up to K51,300,000	@ 30%
Above K51,300,000	@ 35%

(b) Other Tax Rates

Table 8

Category	Rate (%)
Any Person carrying on mining operations (variable profit tax)	Y=30% + [15%-(ab/c)]
Manufacturing & other companies	35
Public Benefit Organisation (on income from business)	15
Farming	10
Non traditional exports	15
Chemical 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	0% for the 1st 5 years
	Rate reduced by 50% from 6-8 years
	Rate reduced by 25% from 9-10 years
Electronic communication business :	
First K250, 000,000	35
Above K250, 000,000	40

(c) Withholding Tax Rates

Table 9

Category	Rate (%)
Dividends for individuals and companies (Final Tax)	15
Dividends for companies carrying on mining operations	0
Interest on GRZ bonds (Final Tax for Individuals & Exempt Organisations only)	15
Interest for individuals (earned from bank or building societies savings and deposit accounts), (Final Tax)	15
Interest on Treasury Bills for Individuals (Final Tax)	15
Interest on Treasury Bills (Final Tax for Exempt Organisations)	15
Other Interest	15
Royalties, Management and Consultancy Fees	15
Rents	15
Commissions	15
Commissions paid to non - resident persons (Final Tax)	15
Public Entertainment Fees for Non- Residents (Final Tax)	15
Non -Resident Contractors (Final Tax)	15

Notes:

(i) When interest is awarded by Courts of Law it is still regarded as "Interest" and withholding tax is deductible in accordance with the appropriate rates as above.

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

19. DOMESTIC TAXES CONTACT ADDRESSES:

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

1 Client Services Centre
New Revenue Hall
Private Bag W136
Lusaka
Tel: Zamtel Network: (01) 38 3201
Airtel Network: 0971 28 3201
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) 38 2505
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 1 220283

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

ZAMBIA REVENUE AUTHORITY
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