CONTENTS **PAGE**

1 GENERAL

This **PRACTICE NOTE** describes the various changes introduced by the Income Tax (Amendment) Act 2000.

The commentary is for general guidance only and is not to be taken as an authoritative interpretation of the provisions. It is not to be held as binding on the Zambia Revenue 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.

Enquiries may be made at the nearest office of the Zambia Revenue Authority, Direct Taxes Division or Advice Centre, situated on the Second Floor, Revenue House, Kabwe Roundabout, Lusaka.

COMMISSIONER -GENERAL

2.0 COMMENTARY

2.1. SECTION 2(1): DEFINITIONS

Bank Subsidiary and Financial Institution,

"Bank subsidiary" is defined as a company where 50% or more of the voting shares are directly or indirectly owned by a bank.

"Financial institution" is defined as a person licensed under Section 10 of the Banking and Financial Services Act.

These terms are defined in connection with the provision of a deduction for bad debts incurred by banks (see note on s.43A, ITA, paragraph 3.8, below).

Public Entertainment Fee

"Public entertainment fee" is defined in connection with the re-introduction of withholding tax on payments to non-resident sportsmen and entertainers (see notes on s.82A, paragraph, 3.15 below).

Farming

"Farming" now excludes the letting of property. This means that as from 1st April 2000 income from the letting of farm property will no longer be taxed at the lower rate applicable to income from farming but will be taxed at the normal marginal rates.

Former ZCCM Company

The definition of a "former Zambia Consolidated Copper Mining Company" now includes ZCCM metal treatment operations sold under the Privatization Act.

Non-traditional product

Services are now specifically excluded from the definition of "non-traditional product". ZRA have always been of the view services were not within the definition and the amendment is purely for the removal of doubt.

2.2 SECTION 4: RESIDENCE:

(a) Subsection 2, which dealt with the residence status *of* spouses has been deleted because it is obsolete now spouses are taxed separately. It should be noted that the residence status *of* spouses would continue to be determined independently.

(b) The amended subsection 3, introduces a new incorporation rule for determining the residency status *of* legal persons such as companies, partnerships and trusts. A legal person will now be resident for tax purposes *if:*

(i) That person is incorporated or formed in Zambia or

(ii) The management and control *of* the person's business or affairs are exercised in Zambia.

The principal effect *of* the new rule will be to make resident in Zambia, from 1 April 2000, all companies incorporated in the Republic, irrespective *of* the date *of* incorporation or the place *of* management and control.

2.3 SECTION 7: DELEGATION OF FUNCTIONS:

The amendment empowers the Commissioner-General to delegate the collection *of* base tax to other institutions, for example a local authority.

The terms and conditions for the delegation *of* the collection *of* base tax will be prescribed in Regulations to be made by the Minister *of* Finance.

2.4 SECTION 8: SECRECY

The amendment extends the secrecy provisions to successors *of* the Tax Appeal Court i.e. the Revenue Appeals Tribunal.

2.5 SECTION 29A: FOREIGN CURRENCY EXCHANGE GAINS AND LOSSES.

The 1999 Amendment Act brought into line the treatment *of* foreign currency exchange gains and losses incurred by banks with recognised accountancy practice i.e. gains and losses are taxed or relieved on translation, not realisation. This amendment clarifies the transitional position. A bank's unrealised gains or losses as at 31/03/99 are to be taxed or relieved, as the case may be, during the year ended 31/03/00.

2.6 SECTION 30: LOSSES

Unrelieved losses may normally be carried forward and set-off against income from the same source for a period of five years from when they are incurred. The amendment extends the period for the carry forward of losses incurred by certain specified former ZCCM Mining Companies to 20 years. ,

2.7 SECTION 36: AMOUNT PAID AFTER CESSATION OF BUSINESS.

This amendment harmonises the section with section 30, which deals with losses, by removing an obsolete reference to the order of set-off.

2.8 SECTION 43A: DEDUCTION FOR BAD AND DOUBTFUL DEBTS.

For a business, an allowance is given for bad debts written off provided, inter alia, the debts have been included in the income from the business. This condition denied relief for banks in respect of loans written off, as such loans would not have been included as part of the bank's income. The amendment rectifies the position by removing the "included in income" condition for banks, bank subsidiaries and financial institutions. However, the total deduction allowable for a bank etc. is not to exceed the minimum statutory provisioning limits set by the Banking and Financial Services Act.

2.9 SECTION 44: CASE OF NO DEDUCTION

A new proviso to section 44 permits certain specified former ZCCM Mining Companies to a deduction for Copper and Cobalt Price Participation payments made to ZCCM.

2.10 SECTION 46A: PROVISIONAL INCOME.

The threshold for making a provisional return has been raised from K960, 000 to'Kl, 200,000 p.a. This means that only individuals (other than individuals whose income consists entirely of emoluments which are subject to PA YE) earning income above Kl, 200,000 in a year will now be required to submit a provisional return.

2.11 SECTION 46 B: ESTIMATED PROVISIONAL TAX RETURNS

The new section provides for the situation where a taxpayer fails to submit a provisional or revised provisional return. The Commissioner-General is now empowered to: -

- Estimate the taxpayer's provisional income in accordance with section 46A,
- Compute the taxpayer's provisional tax liability in accordance with Section 46A;
  and
- Notify the taxpayer of the estimated provisional income and tax thereon.

Practice Note 01/2000 10

The estimated provisional return made by the Commissioner-General is deemed to have been filed by the taxpayer; Acceptance or otherwise of the estimated provisional return by the taxpayer does not relieve him of the obligation to file a provisional return (s.46B (2)).

The taxpayer has no right of objection or appeal against the Commissioner-General's estimated provisional tax liability but when the taxpayer files a provisional return this nullifies the estimated provisional return (s.46B (3)). .

2.12 SECTION 60: DIVIDENDS AND INTEREST.

The amendment removes an obsolete reference to the repealed section 80.

2.13. SECTION 63: COMMISSIONER GENERAL'S POWERS TO ASSESS.

The proviso to subsection one has been amended so that the Commissioner-General is prohibited from assessing public entertainment fees paid to non-residents, from which tax under section *8fA* has been deducted. The withholding tax on public entertainment fees paid to non-residents is thus the final tax.

The Commissioner-General is also now prohibited from assessing, in the case of a resident individual, interest from which tax under section 82A has been deducted. The withholding tax 0n interest paid to resident individuals is thus the final tax.

2.14 SECTION 81A: TAX CLEARANCE CERTIFICATES.

The amendment removes an obsolete reference to the old charging schedule.

2.15. SECTION 82A: WITHHOLDING TAX.

A withholding tax of 15% has been introduced (s.82A (1)(e)) on public entertainment fees
Paid to non-resident persons. The withholding tax should be deducted from all payments to. Entertainers and sportsmen in respect of performances within Zambia. The provision is designed to tackle avoidance by foreign entertainers etc. who perform here and leave without paying any tax.
An amendment has also been made (s.82A (9)) to ensure that ZRA can enforce payment of withholding tax from the payer :

- Dividends
- Payments to non-resident contractors. Management and consultancy fees. Interest and royalties. Rents
- Commission
- Public entertainment fees.

The penalty to be. Charged will be equivalent to the amount, which has not been deducted or withheld.
PracticeNote; 2000 II

2.16 SECTION 93: CASE OF NO ASSESSMENT.

The amendment raises the no assessment case limit from K3, 000 to K20, 000 with effect from 1st April 2000. Assessments for charge years prior to 1st April 2000 will continue to be issued by reference to the previous limits.

.

2.17 SECTION 109: APPEAL AGAINST ASSESSMENT.

The wording of the section has been aligned with the Revenue Appeals Tribunal Act. Subsection 2 has been repealed because Regulation 12 of the Revenue Appeals Regulations, 1998, now deals with late appeals.

2.18 SECTION 110: DETERMINATION OF APPEALS

The wording of the section has been aligned with the Revenue Appeals Tribunal Act, Subsection 2, which is now redundant, has been repealed.

2.19 SECTION 111: APPEAL TO HIGH COURT AND SUPREME COURT

The wording of the section has been aligned with the Revenue Appeals Tribunal Act.

2.20 FIRST SCHEDULE: PARAGRAPH 5 -SUB-PARAGRAPH 1

The amendment clarifies the tax treatment of capital recovery, commonly known as a balancing charge, on the disposal of plant, machinery and implements. The amendment, restricts the balancing charge to the capital allowances granted under the Fifth Schedule.

The following example illustrates the position;

X Ltd purchased the following vehicles for use in their business. The
Company's accounting year-end is 31 March, and it has traded since 1990.

1 st April 1998, Van purchased at cost of K20, 000,000,

1st April 1999, Lorry, purchased at cost of K30, 000,000

" On 12th June 2000, the company sold the lorry for K50, 000,000 and the van for I K30, 000,000.

Capital allowances computations for the charge years ended 31/3/99, 31/3/00 and 31/03/01 will be as follows;

Lorry; Actual cost	K30, 000,000	Van; Actual cost	K20, 000,000
W &T 25% on cost	K 7.500.000	W &T 25% on cost	K 5.000.000
ITV 31/3/2000	K22, 500,000	ITV 31/3/99	KI5, 000,000
		W&T on cost	K 5.000.000
		ITV 31/3/2000 KI0, 000,000	
Sales proceeds	K50.000.000	Sales proceeds	K30.000.000
Balancing charge	K 27,500,000	Balancing charge	K20, 000,000
(Balancing charge to be taxed is restricted to allowances Given.)	K7, 500,000		KI0, 000,000

2.21 SECOND SCHEDULE: PARAGRAPH II.

The amendment removes any doubt that fees received in respect of the management of a. pension fund are within the charge to tax.

2.22 THIRD SCHEDULE: INSURANCE BUSINESS.

The substantial amendment to the Third Schedule has broadened and strengthened the provisions dealing with the taxation of income from insurance companies. A separate Practice Note giving guidance on the new provisions will be issued in due course.

2.23 FIFTH SCHEDULE: MINING DEDUCTIONS

(a) A new paragraph 22(7) deems any former ZCCM Mining Company to be a "1975 new mine." This means such companies are entitled to deduct 100% capital expenditure against their income in the year the expenditure is incurred.

(b) Where a person owns more than one former ZCCM Mining Company they are to be regarded as a single large scale mining and metal treatment operator for the purposes of ascertaining deductions under paragraph 23, which deals with losses arising from non-contiguous, non-producing mines (proviso to paragraph 23).

These changes are only relevant to the owners of former ZCCM Mining Companies.

2.24 CHARGING SCHEDULE

Tax Credits

The tax credit for an individual is increased from K96, 000 to K120, 000 p.a. and for a person with disability from K97, 200 to. KI21, 200 p.a. Tax credits are given as a deduction from tax payable. .

Banks

The threshold at which income of a bank is taxed at the higher rate of 45% has been increased from KI00 million to K250 million.

Former ZCCM Mining Companies

A rate of 25% has been introduced in respect of the income of certain specified former ZCCM Mining. Companies. No withholding tax will be payable by these companies in respect of any dividends and interest paid, or management fees and royalties paid to shareholders or affiliates.

Foreign Earnings- Hotel Industry

The income from foreign earnings of certain companies in the hotel industry is to be regarded as arising from the export of a non-traditional product and, consequently, will be taxed at 15%.
"Foreign earnings" means the total income generated by these companies from non- Zambian residents through their operations and shall be calculated as a percentage of rooms' revenue by non-Zambians compared to total rooms' revenue in each year. Such companies to compute foreign earnings shall then apply the percentage reached to the total earnings.

3.0 OTHER MATTERS

3.1 CAPITAL ALLOWANCES ON LEASED PLANT AND MACHINERY

As from 1st April 1999, Capital allowances on plant, machinery or implements leased in the course of 'I1 business will be calculated on a straight line basis at' the rate of 50% of the qualifying expenditure. Thus the whole of the cost of such equipment will now be written off in two years.

It should be noted that the 50% rate only applies to assets used in the business of leasing and is thus applicable to lessors, not **lessors**. In general, capital allowances are given to lessors, business lessees being able to claim a deduction for payments under the lease. An exception to this general rule is a hire-purchase agreement where the lessee is entitled to the capital allowances. In the case of assets acquired by hire purchase the rate will normally be 25%, as the **lessee** will not usually be using the asset for the business of leasing. For further details on tax treatment of leasing, reference should be made to Practice **Note No. 001/99.**

Where a leasing company incurs qualifying expenditure before 01/4/99, the question arises as to how the balance of expenditure is to be treated. ZRA have decided to give allowances as if the expenditure had been incurred on 01/04/99 that is in the way most beneficial to the taxpayer. The way this transitional rule applies for the two transitional years ending on 31 March 1998 and 1999 is illustrated below. In the example it is assumed the taxpayer is a leasing company incurring expenditure ofKI00 million on a qualifying asset used in the business of leasing.

Year of expenditure	**Allowances due**
Year ended 31/03/97	y/e 31/03/97 -25% = K25 million
(last pre-transitional year)	31/03/98 -25% = K25 million
	31/03/99 -25% = K25 million
	31/03/00 -25% = K25 million
	31/03/01 -Nil, all expenditure relieved
Year ended 31/03/98	y/e 31/03/98 -25% = K25 million
	31/03/99 -25% = K25 million
	31/03/00 -50% = K50 million
	31/03/01 -Nil, all expenditure relieved
Year of expenditure	**Allowances due**
Year ended 31/03/99	y/e 31/03/99 -25% = K25 million
	31/03/00 -50% = K50 million
	31/03/01 -25% = K25 million
	31/03/02 -Nil, all expenditure relieved
Year ended 31/03/00	y/e 31/03/00 -50% = K50 million
(first post-transitional year)	31/03/01 -50% = K50 million
	31/03/02 -Nil, all expenditure relieved

3.2 PENSION FUND PAYMENTS

National Pensions Scheme Authority (NAPSA) is the successor to ZNPF. Deductions for payments to approved pension funds, including NAPSA and ZNPF are governed by s.3? of the Income Tax Act. Employers are reminded that the maximum deduction to be allowed to employees in any
charge year is KI20, 000. Deductions to NAPSA started in February, 2000 so payroll accountants should ensure that the total deductions to employees during the charge year ended 31/03/01, and
subsequent charge years does not exceed the amount actually paid, or KI20, 000, whichever is less.
This note is issued too late to effect the year ended 31/03/00 but payroll accountants who have 'I allowed deductions in excess of K 120,000 to any employee for the charge year ended 31/03/00 I should contact ZRA as soon as possible for advice. Failure to do so may result in substantial penalties if errors are discovered later by P A YE Audit, or otherwise.

3.3 TAXATION OF BENEFITS

3.4 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 ill membership fees etc., the employer is required to add such payments to the employee's
emoluments and deduct tax under P A YE. As the payment by the employer forms part of the employees emoluments the employer may include the payment in tax allowable wages and salaries.

3.5 Benefits that cannot be converted into Cash:

Benefits, which cannot be converted into cash, are not taxable on employees but no
The employer (Section 44 (1. may claim deduction in respect of the cost of providing the benefit

.

(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 employers tax computation is 30% of the taxable income paid to the employee.

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

i) Luxury car~ (1800cc and above)
K200, 000 per month or K2.4 million per annum.

(ii) Other cars (below 1800cc) i K120, 000 per month or KI, 440,000 per annum. Ir

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

Practice. 01/2000 16

3.6 Cash Benefits paid in the form of Allowances:

All cash benefits, paid in the form of allowances are taxable on the employee under P AYE. Examples of such cash benefits are:

- Education allowance; -housing allowance;
- Transport allowance;
- Domestic utility allowances e.g. electricity, telephone, and water allowances.

3.7 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 to an employee of employment due to death.

3.8 DISMISSAL OR RESIGNATION OF AN EMPLOYEE

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

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

These payments are taxable by reference to the- P A YE Tax Tables applicable for the month in which the payment is made.

These payments do not quality for the K3 million exemptions under Section21 (5).

3.9 EXPIRY OF AN 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

Practice Note OJ/2000 17

These payments are taxed as follows:-

i) The final salary is an emolument and should be taxed under P A YE in the month of payment.

ii) Gratuity paid at the end of a fixed term of contract is taxed at the graduated rates of tax, without giving tax credit, as follows; .

- The first K 1,200,000 @ 10%

- the next K600, 000 @ 20%

- the balance @ 30%

- 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 YE tax tables.

- Gratuity paid to permanent and pensionable staff is taxes as follows: -

  - The first K3 million is exempt from tax;

  - the balance is taxes at 10%

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

(iii) Leave pay and repatriation pay will be added to the salary and taxed with respect to the tax tables applicable for the month in which payment is made.

3.10 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) Compensation for loss of office.

The above payments are taxed as follows: -

(i) Salary is taxed under P A YE in the month in which it is paid;
(i)(v) Leave pay, accrued service bonuses, repatriation pay and compensation for loss of office are added together and taxed as follows: -
- the first K3 million is exempt from tax
- the balance is taxes at 1

K3 million (previously K2 million).

5.13 TAX RATES

(a) Personal Income Tax rates;

Personal Income Tax rates remain unchanged as follows;

Chargeable Income per annum		Tax rate
First K 1,200,000	@	10%
The next K600, 000	@	20%
Balance over K 1,800,000	@	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 of Trusts, Deceased or Bankrupt' Estates	@	35%

(b) income from rural enterprise (The tax chargeable is reduced by one-seventh for a period of five years

(c) Withholding Tax rates;

Individuals:		
Interest (final tax)	@	25%
Royalties, Management and Consultancy Fees	@	15%
Rents	@	15%
Commissions	@	15%
Persons other than Individuals		
Interest (not final)	@	15%
Royalties, Management and Consultancy Fees	@	15%
Commissions	@	
Public entertainment fees	@	15%

Practice Note 01/2000 20

5.11 EARLY OR NORMAL RETIREMENT

Where an employee opts for early retirement or is retired at the normal age, the following payments may be made:

(i) Salary.

(ii) Leave pay
(iii) Repatriation pay

The above payments are taxed as follows: -

(i) Salary is taxed under P A YE in the month in which payment is made

(ii) +(iii) Leave pay is added *to* repatriation pay and taxed as follows: -

- the first K3 million is exempt from tax.

- the balance is taxes at .1 0%.

5.12 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

The above payments are taxed as follows: -

(i) The salary up to date of death is taxed under P A YE in the month in which payment is made.

(ii) Leave pay is taxed as follows: -

- the first K3 million is exempt from tax.
- he balance is taxed at 10%

(iii) Gratuity is taxed as in 4.6 (ii) above.

(iv) Ex-gratia payments are exempt from tax.
(v) Where an employee dies when he is eligible for retirement, the tax treatment of payments made is the same as above.

Note that with effect from 1st April 1999 the maximum exemption per individual is

2. DIRECT TAXES:

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

1. **Advice Centre**
   2nd Floor Revenue House
   Private Bag W136
   LUSAKA

   Tel: 226227/236227
   Fax 222717

2. **Assistant Commissioner**
   Lusaka A Tax Office
   P.O. Box 31026
   LUSAKA

3. **Assistant Commissioner**
   Lusaka B Tax Office
   P.O. Box 31936
   LUSAKA

4. **Assistant Commissioner**
   Lusaka C Tax Office
   P.O. Box 31988
   LUSAKA

5. **Assistant Commissioner**
   Ndola Tax Office
   P.O. Box 70181
   NDOLA

6. **Assistant Commissioner**
   Kitwe Tax Office
   P.O. Box 20855
   KITWE

7. **Assistant Commissioner**
   Kabwe tax Office
   P.O. Box 80909
   KABWE

8. **Assistant Commissioner**
   Central Investigation Unit
   P.O. Box 35710
   LUSAKA

9. **Assistant Commissioner**
   Debt Management Unit
   P.O. Box 35710
   LUSAKA

10. **Assistant Commissioner**
    Lusaka Taxes Central Unit
    P.O. Box 34567
    LUSAKA

11. **Senior Inspector**
    Chipata Tax Office
    P.O. Box 510632
    CHIPATA

12. **Senior Inspector**
    Mongu Tax Office
    P.O. Box 910110
    MONGU

13. **Senior Inspector**
    Kasama Tax Office
    P.O. Box 410728
    KASAMA

14. **Senior Inspector**
    Mansa Tax Office
    P.O. Box 710112
    MANSA

15. **Senior Inspector**
    Solwezi Tax Office
    P.O. Box 110368
    SOLWEZI

16. **Senior Inspector**
    Livingstone Tax Office
    P.O. Box 60597
    LIVINGSTONE