



ZAMBIA REVENUE AUTHORITY

PRACTICE NOTE NO. 1/2021

Increases the PAYE exempt threshold to K4,000.00 per month;

Increases tax rate on betting to 25% from 10%;

Introduces Local Content Allowance;

Provides for the use of an electronic payment machine as a payment option and introduces a penalty for failure to comply;

Imposes stiffer penalties for making false returns and statements;

Increases penalty for tax evasion to K90,000 from K9,000;

Extends zero-rating to all agricultural tractors and their accessories;

Our Mission

To optimise and sustain revenue collection and administration for a prosperous Zambia.

Our Vision

A world class model of excellence in revenue administration and trade facilitation.

Tag Line

My Tax, Your Tax, Our Destiny

CONTENTS	PAGE
1.0 FOREWORD	5
 PART I: SUMMARY OF AMENDMENTS	
2.0 THE INCOME TAX (AMENDMENT) ACT NO. 20 OF 2020	6
3.0 THE INCOME TAX (TAX AGENTS) (TERMS AND CONDITIONS) (AMENDMENT) REGULATIONS STATUTORY INSTRUMENT NO. 116 OF 2020	7
4.0 THE INCOME TAX (TRANSFER PRICING) (AMENDMENT) REGULATIONS, STATUTORY INSTRUMENT No. 117 OF 2020	8
5.0 THE INCOME TAX (LOCAL CONTENT ALLOWANCE) REGULATIONS, STATUTORY INSTRUMENT NO. 120 OF 2020	8
6.0 THE PROPERTY TRANSFER TAX (AMENDMENT) ACT NO. 22 OF 2020	8
7.0 THE MINES AND MINERALS DEVELOPMENT (AMENDMENT) ACT NO. 25 OF 2020	9
8.0 THE SKILLS DEVELOPMENT LEVY (AMENDMENT) ACT NO. 24 OF 2020	9
9.0 THE TOURISM AND HOSPITALITY (TOURISM LEVY) (AMENDMENT) REGULATIONS STATUTORY INSTRUMENT NO. 121 OF 2020	9
10.0 THE VALUE ADDED TAX (AMENDMENT) ACT NO. 23 OF 2020	9
11.0 THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 81 OF 2020	10
12.0 THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 89 OF 2020	10
13.0 THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 107 OF 2020	10
14.0 THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 125 OF 2020	11
15.0 THE CUSTOMS AND EXCISE (AMENDMENT) ACT NO. 21 OF 2020	11
 PART II: COMMENTARY ON AMENDMENTS	
16.0 THE INCOME TAX (AMENDMENT) ACT NO. 20 OF 2020	12
17.0 THE INCOME TAX (TAX AGENTS) (TERMS AND CONDITIONS) (AMENDMENT)	

	REGULATIONS STATUTORY INSTRUMENT NO. 116 OF 2020	26
18.0	INCOME TAX (TRANSFER PRICING) (AMENDMENT) REGULATIONS, STATUTORY INSTRUMENT No. 117 OF 2020	27
19.0	THE INCOME TAX (LOCAL CONTENT ALLOWANCE) REGULATIONS, STATUTORY INSTRUMENT NO. 120 OF 2020	34
20.0	THE PROPERTY TRANSFER TAX (AMENDMENT) ACT NO. 22 OF 2020	35
21.0	THE MINES AND MINERALS DEVELOPMENT (AMENDMENT) ACT NO. 25 OF 2020	41
22.0	THE SKILLS DEVELOPMENT LEVY (AMENDMENT) ACT NO. 24 OF 2020	42
23.0	THE TOURISM AND HOSPITALITY (TOURISM LEVY) (AMENDMENT) REGULATIONS STATUTORY INSTRUMENT NO. 121 OF 2020	43
24.0	THE VALUE ADDED TAX (AMENDMENT) ACT NO. 23 OF 2020	44
25.0	THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 81 OF 2020	48
26.0	THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 89 OF 2020	49
27.0	THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 107 OF 2020	51
28.0	THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 125 OF 2020	52
29.0	THE CUSTOMS AND EXCISE (AMENDMENT) ACT NO. 21 OF 2020	53
	PART III: OTHER MATTERS	
30.0	TAX TREATMENT OF EMPLOYMENT BENEFITS	58
30.1	PAYMENTS THAT ARE NOT SUBJECT TO PAY AS YOU EARN (PAYE)	61
31.0	TAX TREATMENT OF CERTAIN EXPENSES	61
31.1	TAX TREATMENT OF EXPENSES INCURRED ON ENTERTAINMENT, HOSPITALITY AND GIFTS	61
31.2	TAX TREATMENT OF CANTEEN EXPENSES, REFRESHMENTS AND FOOD RATIONS	62
32.0	PAYMENTS ON CESSATION OF EMPLOYMENT	62
32.1	TAX TREATMENT OF PAYMENTS MADE ON MEDICAL DISCHARGE	63

33.0	TAX TREATMENT OF ADVANCE AGAINST GRATUITY, PENSIONS AND EMPLOYEE PENSION WITHDRAWALS BY AN INDIVIDUAL CONTINUING IN EMPLOYMENT	64
34.0	TAX TREATMENT OF SETTling IN ALLOWANCES	64
35.0	TAXATION OF RENTAL INCOME	64
36.0	VALUE ADDED TAX TREATMENT OF VARIOUS SERVICES	66
36.1	HIRE OF EQUIPMENT FOR LOADING AND OFFLOADING OF PASSENGERS FROM AIRCRAFT	66
36.2	LOADING OF CARGO FOR EXPORT FROM ZAMBIA	66
36.3	OFFLOADING OF CARGO FROM OUTSIDE ZAMBIA	66
36.4	ANCLLIARY SERVICES RELATING TO GOODS TRANSITING THROUGH ZAMBIA	66
36.5	COLD CHAIN SERVICES	67
36.6	CLEARING AND FORWARDING SERVICES	67
37.0	PARTIAL APPORTIONMENT FOR LEASING	67
38.0	VAT TREATMENT OF IMPORTED SERVICES (REVERSE VAT)	68
39.0	WITHHOLDING TAX ADMINISTRATION ON WINNINGS	68
40.0	PENALTY FOR UNDER-DECLARATION OF TOURISM LEVY	69
41.0	TAX RATES	70
42.0	MISCELLANEOUS MATTERS	78
43.0	APPENDIX	83
44.0	ZAMBIA REVENUE AUTHORITY CONTACT ADDRESSES	85

1.0 FOREWORD

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

1. Income Tax (Amendment) Act No. 20 of 2020
2. Income Tax (Tax Agents) (Terms and Conditions) (Amendment) Regulations Statutory Instrument No. 116 of 2020
3. Income Tax (Transfer Pricing) (Amendment) Regulations, Statutory Instrument No. 117 of 2020
4. Income Tax (Local Content Allowance) Regulations, Statutory Instrument No. 120 of 2020
5. Property Transfer Tax (Amendment) Act No. 22 of 2020
6. Mines and Minerals Development Act (Amendment) Act. 25 of 2020
7. Skills Development Levy (Amendment) Act No. 24 of 2020
8. Tourism and Hospitality (Tourism Levy) (Amendment) Regulations Statutory Instrument No. 121 of 2020
9. Value Added Tax (Amendment) Act No. 23 of 2020
10. Value Added Tax (Zero-rating) (Amendment) Order, Statutory Instrument No. 81 of 2020
11. Value Added Tax (Zero-rating) (Amendment) Order, Statutory Instrument No. 89 of 2020
12. Value Added Tax (Zero-rating) (Amendment) Order, Statutory Instrument No. 107 of 2020
13. Value Added Tax (Zero-rating) (Amendment) Order, Statutory Instrument No. 125 of 2020
14. Customs and Excise (Amendment) Act No. 21 of 2020

The commentary is for general guidance only and is not to be taken as a legal authority in any particular case. The information provided is not exhaustive and does not affect any person's right of appeal on any point concerning a person's liability to tax, nor does it preclude any discretionary treatment which may be allowed under the law.

Note that regarding Excise Duty, only matters relating to domestic Excise Duty have been included in this Practice Note.

Any enquiries regarding the content of this document may be made through the Zambia Revenue Authority (ZRA) National Call Centre, your nearest Customer Experience Centre/Unit or any ZRA Office.

Kingsley Chanda
COMMISSIONER-GENERAL

PART I: SUMMARY OF AMENDMENTS

2.0 THE INCOME TAX (AMENDMENT) ACT NO. 20 OF 2020

Section	Subject
1	Title and commencement
2	Introduces the definitions of the following: <ul style="list-style-type: none">(a) Commodity Royalty;(b) Purchase Price; and(c) Royalty Financing.
6(2)	Removes the provision for the Commissioner-General to appoint staff
29(1),(1A),(1B)	Clarifies that the 30% limitation rule is applicable to interest deductions for borrowings that are of both a revenue and capital nature.
34A(2)	Increases the number of years for claiming Development Allowance to 5 years from 3 years.
34B(1),(2),(3)	Introduces a local content allowance for eligible taxpayers at 2%.
43D(2)	Increases the amount allowed for deduction for employing a differently abled person to K2,000 per annum from K1,000 per annum.
45B(1)	Mandates all Regulatory Bodies to require a Taxpayer Identification Number (TPIN) before registering, renewing or issuing a license, practicing certificate, permit or similar document.
48(1),(2),(3)	<ul style="list-style-type: none">(i) Clarifies that the obligation to furnish information to the Commissioner-General extends to information held outside the Republic or by a non-resident.(ii) Bars the use of information not availed to the Commissioner-General in the courts of law or the Tribunal.
55(1A),(4)	Provides for the mandatory keeping of books of accounts in Zambian Kwacha.
81B(4A),	Mandates all statutory regulatory bodies to require a Tax Clearance Certificate before registering or renewing membership or issuing a license, practicing certificate, permits or similar documents.
81B(4B),	Exempts students or those not carrying on business relating to their profession from presenting a Tax Clearance Certificate to a statutory regulatory body.

81B(4C)	Empowers the Minister to exempt a member from providing a Tax Clearance Certificate to a statutory regulatory body.
82A(1)(i)	Introduces Withholding Tax on commodity royalty.
82A(1A)	Empowers the Commissioner-General to determine the commodity royalty where it cannot be easily quantified from the financing agreement.
82A(10)	Clarifies that a person or partnership who has not deducted withholding tax on payments to non-residents is liable to pay the tax.
97A(1)	Replaces reference to Metal Bulletin with Fastmarkets MB.
Ninth Schedule Part III(4)	Increases the tax rate on betting to 25% from 10%.
Charging Schedule Para 1(1)(b)	Increases the Tax credit for differently abled persons to K6,000 from K3,000.
Charging Schedule Para 2(1)(c),(d),(e), (f)	Increases the income band taxable at 0% for individuals to K48,000 per annum from K39,600 and adjusts the personal income bands at the applicable tax rates.
Charging Schedule Para 2(1)(g)	Reduces the income tax rate to 15% on income earned by persons providing accommodation and food services.
General Amendment	Replaces the words “Domestic Taxes Division” with the word “Authority”

**THE INCOME TAX (TAX AGENT) (TERMS AND CONDITIONS)
(AMENDMENT) REGULATIONS, 2020 STATUTORY INSTRUMENT
NO. 116 OF 2020**

3.0

Subject

Regulation

Title and commencement

1 Increases the maximum commission payable to Tax Agents to 10% from 3%.

2

THE INCOME TAX (TRANSFER PRICING) (AMENDMENT) REGULATIONS, STATUTORY INSTRUMENT NO. 117 OF 2020

4.0

Subject

Regulation

Title and Commencement

1 Increases the annual turnover threshold of a person not required to prepare and maintain transfer pricing documentation to K50 million from K20 million.

21(2)

Prescribes the requirements and conditions for a company resident in Zambia to submit a Country-by-Country report.

22A

THE INCOME TAX (LOCAL CONTENT ALLOWANCE) (AMENDMENT) REGULATIONS, STATUTORY INSTRUMENT NO. 120 OF 2020

5.0

Subject

Title and Commencement

Regulation

Prescribes the agricultural products allowed for a local content allowance.

1

2

THE PROPERTY TRANSFER TAX (AMENDMENT) ACT NO. 22 OF 2020

6.0

Subject

Title and Commencement.

Section

Introduces the definition of the term “Authority”

1

Replaces the words “Domestic Taxes” with the word “Authority”

2

Provides the conditions for exemption from property transfer tax on an indirect transfer of shares.

3(2)

4(1B)

Provides the method of determining the realised value.

5(2A)

Clarifies that relief under group re-organisation applies to a company that has been part of the group for at least 3 years.

5(2B)

Defines the term “effective shareholding”.

5(2C)

Renumbers subsections 2B and 2C as 2D and 2E respectively

5(2D),(2E) 6(1)(d)	Clarifies that only Trusts approved under Section 41 of the Income Tax Act as public benefit organisations qualify for exemption.
9(2)	Prescribes the exchange rate to be used for converting transactions that are in foreign currency into Kwacha
7.0	THE MINES AND MINERALS DEVELOPMENT AMENDMENT ACT NO. 25 OF 2020
	Subject
Section	Title and commencement
1	Introduces the payment of mineral royalty in advance.
89(3)	Replaces reference to Metal Bulletin with Fastmarkets MB
General amendment	SKILLS DEVELOPMENT LEVY AMENDMENT ACT NO. 24 OF 2020
8.0	Subject
Section	Title and commencement
1	Clarifies that the levy is payable by the employer.
4(3)	
9.0	THE TOURISM AND HOSPITALITY (TOURISM LEVY) (AMENDMENT) REGULATIONS STATUTORY INSTRUMENT NO. 121 OF 2020
	Subject
Regulation	Title and commencement
1	Introduces a penalty of 5% for submitting an incorrect return.
8A	Replaces the words “Income Tax Act” with “Value Added Tax Act”
General Amendment	THE VALUE ADDED TAX (AMENDMENT) ACT NO. 23 OF 2020
10.0	Subject
Section	Title and commencement

1	Clarifies what constitutes a supply in Zambia.
11(1)	Rearranges provisions in the section.
19	Clarifies the starting point for the computation of the two year limitation period for an assessment based on an incorrect or inadequate return.
21(6)	Removes reference to the office of Commissioner-Domestic Taxes
34(2)	Makes it mandatory for a taxable supplier to provide an electronic payment machine as a payment option for customers and introduces a penalty for failure to comply.
42C	Increases penalties for making false returns and statements.
43	Increases penalty for tax evasion to K90,000 from K9,000.
44(2)	THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 81 OF 2020 – EFFECTIVE 25TH SEPTEMBER 2020
11.0	Subject
Paragraph	Title and Commencement
1	Zero-rates specified full body sanitising equipment.
Group 5	THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 89 OF 2020 – EFFECTIVE 1ST OCTOBER 2020
12.0	Subject
Paragraph	Title and Commencement
1	Zero-rates some medical supplies used in the prevention of COVID 19.
Group 5	THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 107 OF 2020
13.0	Subject
Paragraph	Title and Commencement
1	Extends zero-rating to all agricultural tractors and their accessories.
Group 8	

**THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER
STATUTORY INSTRUMENT NO. 125 OF 2020**

14.0

Subject

Paragraph

Title and Commencement

1

Zero-rates Petrol and Diesel.

Group 12

THE CUSTOMS AND EXCISE (AMENDMENT) ACT NO. 21 OF 2020

15.0

Subject

Section

Title and Commencement

1

Removes reference to surtax with respect to deduction of the tax through the return.

108(2)

Extends the provisions for an officer to enter and search premises to distributors of excisable products.

113(1)

Extends the provisions for an officer to supervise operations to distributors of excisable products.

115(1)

Introduces a provision to allow the deduction of excise duty on airtime through the return.

139D(3)

Extends the offences of false invoices, false representation and forgery under this provision to services.

141(1)(a)(e)&(f)

Increases specific duty rate on Cigarettes, Pipe Tobacco, Cutrag and other tobacco products to K302 from K265 per mille or per Kg as applicable.

Second Schedule
Heading 7

Clarifies the scope of plastic bags on which excise duty applies.

Second Schedule
Heading 12

Introduces excise duty on reconstituted milk.

Second Schedule
Heading 14

PART II: COMMENTARY ON AMENDMENTS

16.0 THE INCOME TAX (AMENDMENT) ACT NO. 20 OF 2020

16.1 SECTION 1: TITLE AND COMMENCEMENT

This Act shall come into operation on 1st January, 2021.

All the amendments under the Income Tax Act will come into effect on 1st January, 2021 except that the amendments under Sections 45(B) and 81(B)(4A) shall come into effect on a date to be prescribed by the Minister of Finance.

16.2 SECTION 2: INTERPRETATION

16.2.1 Section 2(1) of the principal Act is amended by the introduction of a new definition for commodity royalty.

“commodity royalty” means an amount paid by a person resident in the Republic to a non-resident that is computed by reference to the production, profit, or to the value of production from a mineral deposit or other natural resource in the Republic payable under royalty financing but excludes the repayment of the purchase price for the commodity royalty;

The amendment introduces a definition of commodity royalty. Following this amendment, any payment of a commodity royalty made by a person resident in Zambia will be subject to withholding tax at the rate of 15%.

16.2.2 Section 2(1) of the principal Act is amended by the introduction of the definition of purchase price.

“purchase price” is the amount paid by a non-resident to a person resident in the Republic in return for future payments of commodity royalty.

The amendment introduces a definition for *purchase price* in respect of royalty financing. Purchase price is the amount of funds a non-resident advances to a person resident in the Republic for a specific return with reference to a financial measure which may be based on production, profit, or the value of production from mineral deposits and other natural resources.

16.2.3 The principal Act is amended by the insertion of the following definition:

“royalty financing” means a financing agreement or arrangement where a purchase price is made and includes an arrangement of a similar nature.

This amendment introduces a definition for *royalty financing*. Royalty Financing is a method of funding business operations in the commodity value chains such as those in the extractive industry. This financing is neither equity nor debt.

Under royalty financing the manner of operation is such that a financing entity provides financing to a commodity producer which may be a lumpsum amount or periodic payments. The financing entity will in return receive separate periodic payments which may be a combination of pre-defined amounts and a percentage of revenue or some other financial measure; or the payments may be simply expressed as a percentage of an agreed financial measure. The predefined amounts are usually called minimum payments and are structured in such a way as to pay back the advanced amount.

The royalty payments that are expressed as a percentage of a financial measure, can be based on a sliding scale whereby the percentage varies from year to year or depending on market fundamentals.

Following this amendment, payments falling under this financial instrument will now be subject to Withholding Tax.

16.3 SECTION 6(2): APPOINTMENT OF STAFF

Section 6 of the principal Act is amended by the deletion of subsection (2).

The amendment removes the provision for the Commissioner-General to appoint staff of the Domestic Taxes Division of the Authority. This is because the provisions under subsection are covered by the Zambia Revenue Authority Act, Chapter 321 of the Laws of Zambia.

16.4 SECTION 29: DEDUCTIONS GENERALLY

Section 29 of the principal Act is amended by the deletion and replacement of subsection (1). Further Section 29 has been amended by the insertion of new subsections (1A) and (1B).

(1) Subject to the provisions of this Part in ascertaining -

- (a) business gains or profits in a charge year, there shall be deducted the losses and expenditures, other than of a capital nature, incurred in that year wholly and exclusively for the purposes of the business; and*
- (b) income from a source other than business, only such expenditure, other than expenditure of a capital nature, is allowed as a deduction for any charge year as was incurred wholly and exclusively in the production of the income from that source.*

(1A) Despite sub-section (1) a deduction shall be allowed on the amount payable by way of interest on money borrowed by any person where the Commissioner-General is satisfied that the loan or advance was obtained for capital employed wholly and exclusively for business purposes or in the production of income.

(1B) Despite any other provisions of this Act in ascertaining business gains or profits in a charge year a deduction shall not be allowed on gross interest expense that exceeds thirty percent of the tax earnings before interest, tax, depreciation and amortization.

This amendment clarifies that the 30% limitation rule does not only apply to interest expenditure that is of a revenue nature but that the limitation rule applies to all interest expenditure on borrowings of both revenue and capital nature.

Example 1: Illustration of tax EBITDA

The following example is an extract from the income statement of ABC Holdings for the charge year 2021.

Table 1: Income statement of ABC Holdings

	K'000	K'000
TRADING GROSS PROFIT	200	
Interest Receivable	20	
Total Gross Profit		220
EXPENSES:		
Wages and Salaries	65	
Electricity and Water	15	
Amortisation	10	
Guarantee Fees	5	
Interest	60	
Depreciation	25	
Total Expenses		180
Net Profit		40

Additional information:

- (i) Capital allowance K 30,000.00
- (ii) The K60,000.00 interest is made up of K20,000.00 interest payable on a motor vehicle lease and K40,000.00 is interest payable on an overdraft facility.

Computation of Tax EBITDA:

From the figures in Table 1 above the taxable profit will be:

$$\begin{aligned} \text{Taxable Profit} &= \text{Net Profit} + \text{Depreciation} + \text{Amortisation} + \text{Guarantee Fees} - \text{Capital Allowances} \\ &= 40,000 + 25,000 + 10,000 + 5,000 - 30,000 \\ &= 50,000 \end{aligned}$$

Therefore, tax EBITDA will be computed as follows:

$$\begin{aligned} \text{Tax EBITDA} &= \text{Taxable Profit} + \text{Interest} + \text{Depreciation} + \text{Amortisation} \\ &= 50,000 + 60,000 + 25,000 + 10,000 \\ &= \mathbf{145,000} \end{aligned}$$

Therefore, the allowable interest in 2021 is 30% x 145,000 = 43,500 and the disallowed amount that will be carried forward is 16,500 (60,000 – 43,500). The amount of 16,500 will be available for deduction for the next five years.

Note:

Adding back of depreciation is not a double allowance as capital allowances are given in the calculation of taxable profits. In the calculation of EBITDA, depreciation increases the amount of allowable interest for the taxpayer.

16.5 SECTION 34A: DEVELOPMENT ALLOWANCE

Section 34A (2) of the principal Act is amended by the deletion of the word “three” and the substitution therefor of the word “five”.

Subsection (2) now reads as follows:

(2) The development allowance referred to in subsection (1) may, in the case of a person growing for first time plants or trees referred to therein, be carried forward to the following charge years up to the first year of production, but in no case shall the development allowance in respect of more than five consecutive years be carried forward.

This amendment increases the number of years for claiming the 10% development allowance to 5 years from 3 years. In order to qualify for Development Allowance, a taxpayer:

- (a) should be growing rose flowers, tea, coffee or banana plants or citrus fruit trees or other similar plants or trees; and
- (b) should grow the trees or plants for the first time.

Example 2: Computation of Development Allowance

A first time orange fruit farmer incurs costs for the following items over a period of 5 charge years:

- (i) clearing of land, stumping, fencing, drilling boreholes
- (ii) hire of casual workers
- (iii) hire of excavators
- (iv) seedlings
- (v) fertilizer
- (vi) sprayers
- (vii) chemicals
- (viii) extension services and consultancy
- (ix) mechanised irrigation system

Assuming that the first harvest is in the fifth year, Development Allowance shall be computed as shown in Table 2 below:

Table 2: Calculation of Development Allowance

Charge Year	Expenditure Incurred	Development Allowance @ 10%
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Year 1	K50,000	K5,000
Year 2	K60,000	K6,000
Year 3	K30,000	K3,000
Year 4	K45,000	K4,500
Year 5	K35,000	K3,500

Since the first year of production is year 5, the Development Allowance for the four preceding charge years (years 1 to 4) can be carried forward to be offset against the income in year 5. Therefore, the total amount of Development Allowance available to be claimed in the year 5 will be K22,000 i.e. (K5,000 + K6,000 + K3,000 + K4,500 + K3,500).

16.6 SECTION 34(B): LOCAL CONTENT ALLOWANCE

The principal Act is amended by the insertion of a new section immediately after section 34A.

34B (1) Despite Section 29, where a person carrying on agro-processing or manufacturing incurs in a charge year, expenditure, other than expenditure of a capital nature on the growing or purchase of a prescribed agriculture product, a local content allowance of two per cent of the expenditure shall be deducted in ascertaining the gains or profits of that business for the charge year.

(2) The prescribed agriculture product referred to in subsection (1) shall be grown within the Republic.

(3) For purposes of this section, the local content allowance shall be claimed in each year that the expenditure is incurred but not exceeding three charge years.

This amendment introduces a Local Content Allowance at the rate of 2% for manufacturers or agro-processors that utilise the prescribed agricultural products. The local content allowance will be based on the cost of the prescribed agricultural products.

The taxpayers may claim the allowance:

- (a) if they are carrying on agro-processing or manufacturing business;
- (b) if the prescribed agricultural products are grown in Zambia or the taxpayer purchased the products grown in Zambia;
- (c) within a charge year and can only be claimed for a maximum of 3 years;
- (d) based on the revenue expenditure incurred.

The agricultural products that are allowed for the local content allowance as prescribed by the Minister of Finance are Cassava, Pineapple and Mango.

Example 3: Computation of Local Content Allowance

A company uses a locally grown mangoes to produce Jam. The table below shows the expenditure incurred by the company on the purchase of the mangoes over a period of 5 charge years.

Table 3: Calculation of Local Content Allowance

Charge Year	Expenditure Incurred	Local Content Allowance @ 2%
Year 1	K40,000	K 800
Year 2	K70,000	K1,400
Year 3	K55,000	K1,100
Year 4	K40,000	Nil
Year 5	K35,000	Nil

As shown in the table above, the company will be allowed to claim a local content allowance for Years 1 to 3. However, for Years 4 and 5, the company will not qualify to claim the local content allowance as the company would have already claimed the allowance for three years.

16.7 SECTION 43D: DEDUCTION FOR EMPLOYING A PERSON WITH DISABILITY

Section 43D(2) of the principal Act is amended by the deletion of the word “one” and the substitution therefor of the word “two”.

The subsection now reads as follows:

(2) The amount of the deduction referred to in subsection (1) shall be two thousand Kwacha.

The amendment increases the amount allowed as a deduction by an employer for employing a differently abled person to K2,000 per annum from K1,000 per annum.

The following are the conditions to be met for this deduction to be allowable:

- (i) it should be in respect of each differently abled person;
- (ii) the employee should have been in full time employment for the whole or substantial part of the charge year for which the deduction is claimed; and
- (iii) The employee should have been a member of the Zambia Agency for Persons with Disabilities.

Note:

A period of 183 days or more of the charge year will be taken as a substantial part of that charge year.

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

16.8.1 Section 45B (1) of the principal Act is amended by the insertion in columns 1 and 2 of the following:

COLUMN 1

COLUMN 2

INSTITUTION

Regulatory bodies

TYPE OF TRANSACTION

registration, renewal or issuance of a licence, practicing certificate, permit or similar document;

The amendment makes it mandatory for all regulatory bodies to require a Taxpayer Identification Number (TPIN) before registration, renewal or issuance of a licence, practicing certificate, permit or similar document. Examples of these institutions include; Zambia Institute of Chartered Accountants (ZICA), Engineering Institute of Zambia (EIZ), Law Association of Zambia (LAZ).

16.8.2 Section 45B of the principal Act is amended by the insertion of a new subsection (1A) immediately after subsection (1)

(1A) The requirement for a taxpayer identification number by a regulatory body under subsection (1) shall come into operation on a date that the Minister may appoint by statutory instrument.

This amendment provides the effective date on which the provisions in clause 16.8.1 take effect. This is the date as prescribed by the Minister of Finance.

16.9 SECTION 48: FURNISHING OF INFORMATION

The principal Act is amended by the repeal of Section 48 and the substitution therefor of the following new section:

- (1) The Commissioner-General may request a person to furnish to the Commissioner General information, whether relating to the affairs of that person or any other person that the Commissioner-General determines is necessary for the purposes of this Act.*
- (2) A record requested under this section shall be provided despite the record being outside the Republic or held by a person who is not a resident of the Republic.*
- (3) A person who fails to provide records requested by the Commissioner-General under subsection (1), including records requested pursuant to Part IX, shall be barred from using that record to challenge an assessment or determination, in a court or tribunal.*

This amendment clarifies that the obligation to furnish information to the Commissioner-General extends to information that might be held outside the Republic or by a person who is not resident in the Republic. It further provides that information not availed to the Commissioner-General when requested for, will not be admissible in any subsequent court or tribunal proceedings.

16.10 SECTION 55: ACCOUNTS AND RECORDS

The principal Act is amended in Section 55 by the insertion of a new subsection (1A) immediately after subsection (1) and by the deletion of the words “a person carrying” and the substitution therefor of the words “Despite subsection (1A), a person carrying” in Subsection (4).

The subsections now read as follows:

(1A) The books, accounts, documents, records and other information referred to in subsection (1) shall be kept in Zambian Kwacha.

(4) Despite subsection (1A), a person carrying out any mining operations may elect to keep books of account in United States Dollars of all transactions relating to, connected with, or incidental to, such operations if the Commissioner-General is satisfied that not less than 75 per centum of that person's gross income from mining operations is earned in the form of foreign exchange from outside the Republic.

Provided that such election shall not be reversed without the consent of the Commissioner-General.

The amendment in subsection (1A) provides for the mandatory keeping of all books, accounts, documents, records and other information in Zambian Kwacha.

Where source documents are in foreign currency, taxpayers will be required to translate them into Zambian Kwacha in their books of account.

However, a person carrying out mining operations can still elect to keep the books of account in United States Dollars provided that person meets the criteria set out in subsection (4).

16.11 SECTION 81(B): TAX CLEARANCE CERTIFICATE

Section 81B of the principal Act is amended by the insertion of the following new subsections:

(4A) A person, institution or authority empowered by an Act of Parliament to Regulate its members shall not register or renew membership or issue a license, practicing certificate, permit or similar document unless the applicant produces a tax clearance certificate.

(4B) Despite subsection (4A), a person, institution or authority under subsection (4A) shall not require a tax clearance certificate from an applicant that falls under the category of a student or an applicant that is not carrying on business relating to the profession.

(4C) Despite subsection (4A), the Minister may exempt a member from the requirement under subsection (4A) as prescribed.

The amendment in subsection (4A) makes it mandatory for all statutory regulatory bodies to require a Tax Clearance Certificate (TCC) before registering or renewing membership or before issuing any licence, practicing certificate, permits or similar documents.

However, the amendment in subsection (4B) exempts students or those not carrying on business relating to their profession from presenting a tax clearance certificate before registering or renewing membership. For example, an engineer who is in full time employment is not required to provide a

Tax Clearance Certificate (TCC) to Engineering Institute of Zambia (EIZ) when registering or renewing membership.

Examples of professional institutions with membership requirements include; Zambia Institute of Chartered Accountants (ZICA), Engineering Institute of Zambia (EIZ), Law Association of Zambia (LAZ), General Nursing Council (GNC), Teaching Council of Zambia, Health Professions Council of Zambia (HPCZ).

The provisions highlighted above will take effect on the date as prescribed by the Minister of Finance.

Note:

All self-employed members whose business is one governed by an Act are not exempt from provision of TCC as the exemption is only for members that are not self-employed. Members who are not self - employed could include individuals employed as Engineers, Doctors, Lawyers, Accountants, or Auditors. This is because these individuals (in employment) are not carrying on business relating to their profession.

Understandably, some of these individuals may be running businesses such as passenger transport, trading etc. But these businesses are not related to their profession.

16.12 SECTION 82(A): DEDUCTION OF TAX FROM CERTAIN PAYMENTS

16.12.1 Section 82(A) of the principal Act is amended by the insertion in subsection (1) of the following new paragraph immediately after paragraph (h):

(i) *a commodity royalty.*

This amendment makes it mandatory for a person making a payment of commodity royalty to deduct withholding tax at a rate of 15%. The tax deducted is a final Tax.

Since commodity royalty is not one of the classifications of income covered under the Double Taxation Agreements (DTAs) that Zambia has signed, there is no basis for granting relief on the withholding tax payable. Further, the Article on business profits in the DTA cannot be used to grant relief because the commodity royalty is classified as investment income.

16.12.2 Section 82(A) of the principal Act is amended by the insertion of the following new subsection immediately after subsection (1):

(1A) The Commissioner-General may determine the commodity royalty under subsection (1)(i) where the financing agreement or arrangement does not state what constitutes the repayment of the purchase price.

This amendment empowers the Commissioner-General to determine the commodity royalty where it cannot be easily quantified in the financing agreement or arrangement.

Example 4: Commodity Royalty

A non-resident financing entity pays a resident mining company a Purchase Price of \$10,000,000 in return for a Royalty payment of 0.5% of gross revenues from the sale of minerals for the duration of the agreement.

As from the start of the agreement and in consideration of the payment by the financing entity of the Purchase Price, the mining company agrees to pay the financing entity for each quarter the Minimum Payment amounts as indicated in Table (4) below, or the Commodity Royalty, whichever is higher. Once the mining company has re-paid the Purchase Price in full, it shall pay the financing entity a Royalty payment of 0.5% of gross revenues for each quarter for the duration of the Agreement, which is subject to withholding tax in Zambia.

Table 4: Minimum payments Schedule

Year 1				Year 2			
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
\$1,250,000	\$1,250,000	\$1,250,000	\$1,250,000	\$1,250,000	\$1,250,000	\$1,250,000	\$1,250,000

Table 5: Computation of Commodity Royalty

	Year 1				Year 2			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Gross revenue (\$)	250,000,000	250,000,000	300,000,000	350,000,000	280,000,000	250,000,000	250,000,000	300,000,000
Royalty payment @ 0.5%	1,250,000	1,250,000	1,500,000	1,750,000	1,400,000	1,250,000	1,250,000	1,500,000
Commodity Royalty	Nil	Nil	250,000	500,000	150,000	Nil	Nil	250,000

Example 5: Determination of Commodity Royalty by Commissioner – General

A non-resident financing entity pays a resident mining company a Purchase Price of \$10,000,000 in return for Royalty payments. From the start of the agreement and in consideration for the receipt of the Purchase Price, the mining company agrees to pay the financing entity 0.5% of gross revenues from the sale of minerals each quarter. The duration of the agreement is the entire lifespan of the project.

Table 6: Computation of Commodity Royalty by Commissioner – General

	Year 1				Year 2
	Q1	Q2	Q3	Q4	Q1

Gross revenue (\$)	400,000,000	350,000,000	450,000,000	500,000,000	430,000,000
Royalty payment @ 0.5%	2,000,000	1,750,000	2,250,000	2,500,000	2,150,000
Commodity Royalty	Nil	Nil	*Nil	500,000	150,000

***Note:**

No Commodity Royalty was payable in Q3 because the Royalty payment included the purchase price that was not fully paid in Q2.

Since the agreement does not specify the repayment of the purchase price the Commissioner General will need to ascertain how the quarterly royalty payments will be apportioned between the repayment of purchase price and commodity royalty.

In the example above, the Commissioner General determines that the purchase price should be repaid in five consecutive quarters. This will mean that there is a deemed “minimum payment” of \$2,000,000 each quarter, which in turn means that any amount in a quarterly payment which is in excess of \$2,000,000 will be a commodity royalty which is subject to tax.

Once the mining company has re-paid the Purchase Price in full, it shall continue to pay the financing entity a Royalty of 0.5% of gross revenues for each quarter for the duration of the agreement, which is subject to withholding tax in Zambia.

16.12.3Section 82(A) of the principal Act is amended by the insertion of the following new subsection immediately after subsection (9):

(10) Where a person or partnership fails to deduct or withhold tax as required by this section, section 81 and section 81A, on a payment to a non-resident that person or partnership shall be liable to pay the amount of tax which has not been deducted or withheld.

The amendment clarifies that a person or partnership that has not deducted withholding tax on payments to non-residents when required to do so, is liable to pay the tax.

Note that this amendment is only a clarification because the provision on the requirement to deduct tax from payments has always been in the Act. For example, sections 81(1), 81A(1) and 82A(1) require a person making a payment of a dividend; payment to a non resident contractor; certain payments; to deduct tax.

Therefore, the requirement to pay tax where the resident person or partnership did not deduct tax, extends even to past charge years.

16.13 SECTION 97A: TRANSFER PRICING

Section 97A (1) of the principal Act is amended by the deletion of the definition of “reference price” and the substitution therefor of the following:

“reference price” means—

- (a) the monthly average London Metal Exchange cash price;*
- (b) the monthly average Fastmarkets MB cash price to the extent that the base metal or precious metal price is not quoted on the London Metal Exchange; or*
- (c) the monthly average cash price of any other metal exchange market as approved by the Commissioner-General to the extent that the base metal price or precious metal price is not quoted on the London Metal Exchange or Fastmarkets MB;*

This amendment removes the reference to Metal Bulletin and replaces it with the rebranded name Fastmarkets MB in section 97A (1)(b) and (c).

16.14 NINTH SCHEDULE PART (III): TAX ON BETTING AND GAMING

The Ninth Schedule to the principal Act is amended under Part III in item (4) by the deletion of the words “10 percent of gross takings” and the substitution therefor of the words “25 percent of gross takings”.

<i>Type of Game</i>	<i>Monthly Tax Rate or Monthly Tax Amount</i>
<i>4. Betting</i>	<i>25 percent of gross takings</i>

This amendment increases the tax rate on betting to 25 % from 10 % of gross takings.

Note:

“Gross takings” is the total amount staked by players less winnings payable.

16.15 CHARGING SCHEDULE:

16.15.1The Charging Schedule to the principal Act is amended in part I, paragraph 1 (1) (b), by the deletion of the words “three thousand Kwacha” and the substitution therefor of the words “six thousand Kwacha”.

The new provision now reads as follows:

(1) Subject to sub-paragraph (2) the tax credit referred to in subsection (2) of section fourteen which is appropriate-

(b) to an individual who is a person with disability for any charge year is six thousand Kwacha per annum.

This amendment increases the tax credit for differently abled persons to K6,000 per year (K500 per month) from the current K3,000 per year (K250 per month).

To access the tax credit:

- (i) in the case of full time employees, their employers will grant the credit through the payroll.
- (ii) for self employed individuals it will be through their Income Tax return which should be submitted after 31st December every year.

Note:

- In order to qualify for the tax credit the individual should be a member of the Zambia Agency for Persons with Disabilities.
- The granting of the tax credit shall not give rise to the repayment of tax.

16.15.2 PAY AS YOU EARN – PARAGRAPH 2(1)(c)(d)(e) and (f)

The amendment increases the annual income band taxable at zero percent for individuals (those in employment and self employed) to K48,000 from K39,600.

This means that an individual who earns up to K4,000 per month or up to K48,000 per annum shall not pay income tax.

The income bands have equally been adjusted as shown in Table 7 below:

Table 7: Comparison of Personal Income Tax Bands – Annual

2021 CHARGE YEAR income bands	2021 RATES	2020 CHARGE YEAR income bands	2020 RATES
First K48,000	0%	First K39,600	0%
Above K48,000 up to K57,600	25%	Above K39,600 up to K49,200	25%
Above K57,600 up to K82,800	30%	Above K49,200 up to K 74,400	30%
Above K82,800	37.5%	Above K74,400	37.5%

Table 8: Comparison of Personal Income Tax Bands – Monthly

2021 CHARGE YEAR income bands	2021 RATES	2020 CHARGE YEAR income bands	2020 RATES
First K4,000	0%	First K3,300	0%
Above K4,000 up to K4,800	25%	Above K3,300 up to K4,100	25%
Above K4,800 up to K6,900	30%	Above K4,100 up to K6,200	30%
Above K6,900	37.5%	Above K6,200	37.5%

16.15.3 The Charging Schedule to the principal Act is amended in part II, paragraph 5 by the insertion of the following new item immediately after item (f):

Notwithstanding the provisions of paragraphs (1), (2), (3), (4), (6) and (7) –

(g) the maximum rate of tax for the charge year 2021 on income received by a person providing accommodation and food services is fifteen per cent.

This amendment reduces the income tax rate to 15% on income earned by persons providing accommodation and food services. For a person to qualify for this reduced rate, they should provide both accommodation and food services.

Note:

The amendment is only applicable to income earned in the 2021 charge year and therefore shall be operationalised in the 2021 Income Tax return to be filed next year (2022).

16.16 GENERAL AMENDMENT:

The principal Act is amended by the deletion of the words “Domestic Taxes Division” wherever the words appear and the substitution therefor of the word “Authority”.

17.0 THE INCOME TAX (TAX AGENT) (TERMS AND CONDITIONS) (AMENDMENT) REGULATIONS, 2020 STATUTORY INSTRUMENT NO. 116 OF 2020

17.1 REGULATION 1: TITLE AND COMMENCEMENT

These Regulations shall come into operation on 1st January, 2021.

17.2 REGULATION 2: COMMISSION FOR TAX AGENTS

Regulation 2 of the principal Regulations is amended in sub-regulation (1) by the deletion of the word “three” and the substitution therefor of the word “ten”.

The sub-regulation (1) now reads as follows;

(1) A person appointed by the Commissioner-General as a Tax Agent to collect base tax, presumptive tax, turnover tax or tax on rental income is entitled to a commission payable at a rate not exceeding ten percent of the actual tax revenue collected by the Tax Agent.

The amendment increases the commission payable to Tax Agents to a maximum rate of 10% from 3%.

17.3 SCHEDULE: GENERAL TERMS AND CONDITIONS FOR TAX AGENTS

The Schedule to the principal Regulations is amended in number 4 by the deletion of the words “the rate of 3%” and the substitution therefor of the words “a rate not exceeding ten percent”.

4.0 The Agent shall be paid a Commission at a rate not exceeding ten percent of the total monthly revenue collection attributed to the Agent. The Commission shall be paid only on the moneys actually received by ZRA in any given month and attributed to the Agent.

The amendment increases the maximum commission payable to Tax Agents to 10% from 3%. Prior to this change the Commissioner-General was only allowed to pay 3% of the collections as commission.

18.0 INCOME TAX (TRANSFER PRICING) (AMENDMENT) REGULATIONS, STATUTORY INSTRUMENT NO. 117 OF 2020

18.1 REGULATION 1: TITLE AND COMMENCEMENT

These Regulations shall come into operation on 1st January, 2021, and shall have effect in relation to the charge of tax for the charge year ending on 31st December, 2021, and to each subsequent charge year.

18.2 REGULATION 21: PROVISION OF DOCUMENTATION OF CONTROLLED

TRANSACTION

Regulation 21(2) of the principal Regulations is amended by the deletion of the word “twenty” and substitution therefor of the word “fifty”.

The sub-regulation now reads as follows:

(2) This Regulation does not apply to a person whose annual turnover is below fifty million Kwacha in any charge year.

The amendment increases the annual turnover threshold of a person who is not required to prepare and maintain transfer pricing documentation to K50 million from K20 million.

Note that all the transfer pricing rules will still apply to all transactions between associated persons irrespective of annual turnover, except for specific requirements relating to transfer pricing documentation rules under Regulation 21(4) of the Income Tax (Transfer Pricing) (Amendment) Regulations, 2018.

18.3 REGULATION 22A: SUBMISSION OF COUNTRY BY COUNTRY REPORT

18.3.1 The principal Regulations are amended by the insertion of the following new Regulation immediately after Regulation 22:

22A. (1) For the purposes of this Regulation, unless the context otherwise requires:

“accounting year” means an annual accounting period with respect to which the ultimate parent entity of the multinational enterprise group prepares its financial statements;

“consolidated financial statements” means the financial statements of a multi-national enterprise group in which the assets, liabilities, income, expenses and cash flows of the ultimate parent entity and the constituent entities are presented as those of a single economic entity;

“constituent entity” means—

(a) a separate business unit of a multi-national enterprise group that is included in consolidated financial statements of a multi-national enterprise group for financial reporting purposes, or would be included if equity interests in the business unit of a multinational enterprise group are traded on a public securities exchange;

(b) a business unit that is excluded from the multi-national enterprise group’s consolidated financial statements solely on grounds of size or materiality; and

(c) a permanent establishment of a separate business unit of a multi-national enterprise group included in paragraph (a) or (b) provided the business unit prepares

a separate financial statement for that permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes;

“excluded multi-national enterprise group” means, with respect to an accounting year of the group, a group having a total consolidated group revenue of less than seven hundred and fifty million Euros or four thousand seven hundred and ninety-five million Kwacha during the accounting year immediately preceding the reporting accounting year as reflected in the group’s consolidated financial statements for the preceding accounting year;

“group” means a collection of enterprises related through ownership or control that are required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles, or to prepare a consolidated financial statement if equity interests in any of the enterprises were traded on a public securities exchange;

“international agreement” shall mean the Multilateral Agreement for Mutual Administrative Assistance in tax matters, any bilateral or multilateral tax agreement, or any tax information exchange agreement to which the Republic is a party, and that by its terms provides legal authority for the exchange of tax information between States, including the automatic exchange of that information;

“multi-national enterprise group” means a group of associated business entities established in two or more States that is not an excluded multi-national enterprise group and includes an enterprise that is resident for tax purposes in one State and is subject to tax with respect to the business carried out through a permanent establishment in another State;

“qualifying competent authority agreement” means an agreement that—

(a) is between authorised representatives of those States that are parties to an international agreement; and

(b) requires the automatic exchange of country-by country reports between the party’s States;

“reporting accounting year” means an accounting year whose financial and operational results are reflected in the country-by-country report in accordance with subregulation (3);

“reporting entity” means a constituent entity that is required to file a country-by-country report in a constituent entity’s State of tax residence on behalf of a multi-national enterprise group under sub-regulations (3) and (4) and includes an ultimate parent entity, a surrogate parent entity, or an entity described in sub-regulation (5);

“surrogate parent entity” means one constituent entity of the multi-national enterprise group that is appointed by a multi-national enterprise group as a sole substitute for the ultimate parent entity, to file a country-by-country report in that constituent entity’s State of tax residence, on behalf of the multi-national enterprise group, when one or more of the conditions set out in sub-regulation (5)(b) is applied;

“systemic failure” in relation to a qualifying competent authority agreement between a State and the Republic, means—

(a) the suspension by the State of the automatic exchange of information for reasons other than those in the agreement; or

(b) continued failure by the State to automatically submit to the Republic county-by-country reports; and

“ultimate parent entity” means a constituent entity of a multi-national enterprise group that meets the following conditions:

(a) the constituent entity directly or indirectly owns a sufficient interest in one or more of the constituent entities of the multi-national enterprise group and it is required to prepare consolidated financial statements under accounting principles generally applied in the constituent entity’s State of tax residence, or would be required if constituent entity’s equity interests were traded on a public securities exchange in the constituent entity’s State of tax residence; and

(b) there is no other constituent entity of that multinational enterprise group that directly or indirectly owns an interest described in paragraph (a).

(2) An ultimate parent entity of a multi-national enterprise group that is resident for tax purposes in the Republic with an annual consolidated group revenue exceeding seven hundred and fifty million Euros or four thousand, seven hundred and ninety-five million Kwacha in the immediately preceding accounting year shall file a country-by-country report with the Commissioner-General with respect to its reporting accounting year on or before the date specified in subregulation (10).

(3) For the purposes of this regulation, a country-by-country report with respect to a multi-national enterprise group shall contain—

(a) aggregate information with regard to each State in which the multi-national enterprise group operates relating to—

- (i) revenue;*
- (ii) profit or loss before income tax;*
- (iii) income tax paid;*

- (iv) income tax accrued;*
- (v) stated capital;*
- (vi) accumulated earnings;*
- (vii) number of employees; and*
- (viii) tangible assets other than cash or cash equivalents; and*

(b) an identification of each constituent entity of the multi-national enterprise group setting out the State of tax residence of the constituent entity, and where different from the State of tax residence, the State under the laws of which the constituent entity is organised, and the nature of the main business activity or activities of the constituent entity.

(4) The standard template of a country- by-country report shall be in the Form set out in the Schedule.

(5) A constituent entity which is not an ultimate parent entity of a multi-national enterprise group shall file a country-by-country report in accordance with sub-regulations (3) and (4) with the Commissioner-General with respect to the reporting accounting year of a multi-national enterprise group of which it is a constituent entity, on or before the date specified under subregulation (10), if the following conditions are satisfied:

(a) the entity is resident for tax purposes in the Republic; and

(b) one of the following conditions applies:

(i) the ultimate parent entity of the multi- national enterprise group is not obligated to file a country-by- country report in its State of tax residence;

(ii) the State in which the ultimate parent entity is resident for tax purposes has a current international agreement with the Republic but does not have a qualifying competent authority agreement with the Republic at the time specified in sub-regulation (10) for filing the country-by-country report for the reporting accounting year; or

(iii) there is a system failure in the State of tax residence of the ultimate parent entity and the Commissioner- General notifies the constituent entity resident for tax purposes in the Republic.

(6) Where there is more than one constituent entity of the same multi-national enterprise group that is resident for tax purposes in the Republic and one or more of the conditions set out in subregulation (5)(b) applies the multi-national enterprise group may—

(a) designate one of the constituent entities to file with the Commissioner-General the country-by- country report in accordance with sub-regulations (3) and (4) relating to a reporting accounting year on or before the date specified in sub-regulation (9); and

(b) notify the Commissioner- General that the filing is intended to satisfy the filing requirement of the constituent entities of the multi-national enterprise group that is resident in the Republic for tax purposes.

(7) Despite the provisions of sub-regulation (6), when one or more of the conditions set out in sub-regulation (5)(b) applies, an entity described in sub-regulation (6) shall not be required to file a country-by-country report with the Commissioner-General with respect to a reporting accounting year if the multi-national enterprise group of which it is a constituent entity has made available a country by-country report with respect to that accounting year through a surrogate parent entity that files that country-by-country report with the tax authority of its State of tax residence on or before the date specified in sub-regulation (10) and that satisfies the following conditions:

(a) the State of tax residence of the surrogate parent entity requires the filing of a country-by-country report in accordance with subregulations (3) and (4);

(b) the State of tax residence of the surrogate parent entity has a qualifying competent authority agreement with the Republic by the time specified in sub-regulation (10) for filing the country-by-country report for the reporting accounting year;

(c) the State of tax residence of the surrogate parent entity notifies the Commissioner-General of a system failure;

(d) the State of tax residence of the surrogate parent entity notifies the Commissioner-General in accordance with sub-regulation (8) by the constituent entity resident for tax purposes in its State that it is the surrogate parent entity;
and

(e) the Commissioner-General is notified in accordance with sub-regulation (9).

(8) A constituent entity of a multi-national enterprise group that is resident for tax purposes, in the Republic shall notify the Commissioner-General whether it is the ultimate parent entity or the surrogate parent entity, no later than the last day of the reporting accounting year of the multi-national enterprise group.

(9) Where a constituent entity of a multi-national enterprise group that is resident for tax purposes, in the Republic is not the ultimate parent entity or the surrogate parent entity, the constituent entity shall notify the Commissioner-General of the identity and tax residence of the reporting entity, no later than the last day of the reporting accounting year of the multi-national enterprise group.

(10) A country-by-country report required by these Regulations shall be filed no later than twelve months after the last day of the reporting accounting year of the multi-national enterprise group.

(11) The Commissioner-General shall use the country-by-country report for the purposes of—

(a) assessing high-level transfer pricing risks and other base erosion and profit shifting related risks in the Republic;

(b) assessing the risk of non-compliance by members of the multi-national enterprise group with applicable transfer pricing rules; and

(c) where appropriate, economic and statistical analysis.

(12) Despite subregulation (11), transfer pricing adjustments by the Commissioner-General shall not be based on the county-by-country report.

(13) The Commissioner-General shall preserve the confidentiality of the information contained in the country-by-country report to the same extent that would apply if the information were provided to the Commissioner-General under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

The amendment sets out requirements and conditions for a company resident in Zambia to be mandated to submit a Country-by-Country report to the Commissioner-General where:

- (i) The company is the Ultimate Parent Entity or Surrogate Parent Entity of a Multi National Enterprise Group; and
- (ii) The annual turnover of the group exceeds EUR750million or K4.795billion;

However, a Zambian entity which is neither the Ultimate Parent Entity nor Surrogate Parent Entity of the qualifying group is still required to file a Country-by-Country report to the Commissioner General where:

- (i) The Parent company is not required to file in its jurisdiction;
- (ii) The jurisdiction of the Parent entity does not have automatic exchange of information with Zambia; or
- (iii) There is a systemic failure in the automatic exchange of information.

Note 1:

Entities operating in Zambia which are members of a group which meets the prescribed threshold are required to notify the Commissioner-General who the parent or reporting company is and their jurisdiction. This notification should be done by the end of each accounting year of the Multi National Enterprise Group.

18.3.2 The principal Regulations are amended by the insertion of the new Schedule immediately after Regulation 23, set out in the Appendix. This Schedule is the standard template for Country by Country Report.

19.0 INCOME TAX (LOCAL CONTENT ALLOWANCE) REGULATIONS, STATUTORY INSTRUMENT NO. 120 OF 2020

19.1 REGULATION 1: TITLE AND COMMENCEMENT

These Regulations shall come into operation on 1st January 2021.

19.2 REGULATION 2: LOCAL CONTENT ALLOWANCE FOR AGRICULTURAL PRODUCTS

A new regulation is introduced as follows:

(2) A person who carries on agro-processing or manufacturing and incurs in a charge year, expenditure, other than expenditure of a capital nature, on the growing or purchase of an

agricultural product set out in the Schedule, qualifies for a local content allowance in terms of section 34B of the Act for a period not exceeding three charge years.

The amendment provides a schedule listing the agricultural products that are allowed for the local content allowance. This follows the introduction of the local content allowance under section 34B of the Income Tax Act.

There are three (3) products that are allowed namely; cassava, pineapple and mango.

20.0 PROPERTY TRANSFER TAX (AMENDMENT) ACT NO. 22 OF 2020

20.1 SECTION 1: TITLE AND COMMENCEMENT

This Act shall come into operation on 1st January, 2021.

20.2 SECTION 2: INTERPRETATION

Section 2 of the principal Act is amended by the insertion of the following new definition in the appropriate place in alphabetical order:

“Authority” means the Zambia Revenue Authority established under the Zambia Revenue Authority Act;

This amendment introduces a definition of the term “Authority” as it is used in the Property Transfer Tax Act. Prior to this amendment, there was no definition of the word available.

20.3 SECTION 3: FUNCTIONS AND POWERS OF COMMISSIONER GENERAL

Section 3 (2) of the principal Act is amended by the deletion of the words “Domestic Taxes Division” and the substitution therefor of the word “Direct Taxes Division”. The provision now reads as follows:

(2) The Commissioner-General may, in writing and subject to such conditions as the Commissioner-General may specify, delegate to the Commissioner or to any officer in the Direct Taxes Division any power conferred, or any duty imposed, on the Commissioner-General by this section.

This amendment replaces the words “Domestic Taxes Division” with “Direct Taxes Division”.

20.4 SECTION 4: PROPERTY TRANSFER TAX

Section 4 of the principal Act is amended by the insertion of the following new subsection immediately after subsection (1A):

(1B) A transfer of shares referred under subsection (1A), is not liable to tax if the total value of the transferred shares over a period of three years represents less than ten percent of the total value of shares in the company incorporated in the Republic.

The amendment exempts from Property Transfer Tax the offshore indirect transfer of shares where the total value of the transferred shares over a period of 3 years is less than 10% of the value of the company incorporated in the Republic.

Indirect transfer of shares, also known as off-shore transfer of shares, happens when shares of a company incorporated outside Zambia which directly or indirectly owns shares in a Zambian entity are transferred.

Example 6: Determination of transactions liable to Property Transfer Tax

Company A, a resident of country A indirectly owns Company C which is resident in Zambia. Shares in Company A are transferred as indicated in the table below. The transfer of shares is by a single shareholder in Company A.

Table 9: Sale of Shares held in Company A

Year	Total Value of Transferred Shares in Company A	Value of Company C
Year 1	K 2 million	K 100 million
Year 2	K 2 million	K 105 million

Year 3	K 2 million	K 110 million
Year 4	K 3 million	K 130 million
Year 5	K 9 million	K 135 million
Year 6	K 10 million	K 150 million

a) **The total value of transferred shares in relation to the value of the Zambian entity in Year 1 will be:**

$$\frac{\text{Total value of transferred shares in Year 1}}{\text{Value of Company C in Year 1}} \times 100$$

$$\frac{2 \text{ million}}{100 \text{ million}} \times 100 = 2\%$$

Therefore, the sale of shares in year 1 worth K2 million will not be liable to PTT since the total value of the transferred shares represents 2% of the value of the company incorporated in the Republic, which is below the threshold of 10%.

b) **The total value of transferred shares in relation to the value of the Zambian entity in Year 2, Year 3 and Year 4 will be less than 10% threshold as shown below:**

Year 2

$$\frac{\text{Total value of transferred shares in Year 1 and Year 2}}{\text{Value of comp. C in Year 2}} = \frac{4 \text{ million}}{105 \text{ million}} \times 100 = 3.8\%$$

Year 3

$$\frac{\text{Total value of transferred shares in Year 1, Year 2 and Year 3}}{\text{Value of comp. C in Year 3}} = \frac{6 \text{ million}}{110 \text{ million}} \times 100 = 5.5\%$$

Year 4

$$\frac{\text{Total value of transferred shares in Year 2, Year 3 and Year 4}}{\text{Value of comp. C in Year 4}} = \frac{7 \text{ million}}{130 \text{ million}} \times 100 = 5.4\%$$

Therefore, the transfer of shares in these years will not be liable to PTT.

c) **The total value of transferred shares in relation to the value of the Zambian entity in Year 5 will be as follows:**

$$\frac{\text{Total value of transferred shares in Year 3, Year 4 and Year 5}}{\text{Value of comp. C in Year 5}} = \frac{14 \text{ million}}{135 \text{ million}} \times 100 = 10.4\%$$

Therefore, the transfer of shares in year 3, year 4 and year 5 will be liable to PTT since the total value of transferred shares in these successive years meet the 10% threshold.

d) The total value of transferred shares in relation to the value of the Zambian entity in Year 6 will be as follows:

$$\frac{\text{Total value of transferred shares in Year 4, Year 5 and Year 6} = 22 \text{ million}}{\text{Value of comp. C in Year 6}} \times 100 = 14.7\%$$

150 million

Therefore, the transfer of shares will be liable to PTT since the total value of transferred shares in these successive years meets the 10% threshold. However, only the amount in Year 6 will be subject to PTT because the amounts in year 4 and year 5 have already been taxed.

Note:

The transfer of shares in those years will be taxed in the respective charge years. In this particular case, the taxpayer will be required to pay the tax due for each of the charge years 3, 4, 5 and 6 respectively.

20.5 SECTION 5: REALISED VALUE

20.5.1 Section 5 of the principal Act is amended by the deletion of subsection (2A) and the substitution therefor of the following:

(2A) Where the property to be valued is a share issued by a company incorporated outside the Republic that directly or indirectly owns at least ten per cent of a company incorporated in the Republic, the realised value shall be whichever is greater of the-

(a) effective shareholding multiplied by the value of the transferred shares;

*(b) effective shareholding multiplied by the consideration for the transferred shares;
and*

(c) effective shareholding multiplied by the nominal value of the transferred shares.

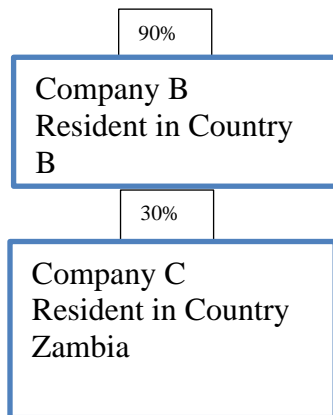
The amendment provides the method of determining the realized value for purposes of accounting for property transfer tax. This method incorporates the effective shareholding as a basis for computing the amount liable to tax.

Example 7: Determination of Realised Value

A Zambian incorporated entity, Company C, is 30% directly owned by company B and indirectly owned by the parent company A. Company A owns 90% shares of company B. Company A has been a member of the group for more than 3 years.

Figure 1: Group Structure





The value of Company A is K200m, while Company C's value is K100m. During the year, shares in Company A with a nominal value of K50m were transferred.

The effective shareholding of A in Company C is calculated as follows: $90\% \times 30\% = 27\%$.

Since the effective shareholding of Company A in Company C is greater than 10 %, the transfer of shares in Company A is liable to Tax in Zambia.

Additional Information:

- The shares were sold at K60m (consideration)
- The open market/fair market value of the shares is K40m

The realized value is the greater of the following:

- (i) $27\% \times K40m = K10.8m$
- (ii) $27\% \times K60m = K16.2m$
- (iii) $27\% \times K50m = K13.5m$

Therefore, the realised value is K16.2m.

20.5.2 Section 5 of the principal Act is amended by the insertion of the following new subsection (2B):

(2B) Despite subsection (2A), where the Commissioner-General is satisfied that a transfer is made for the purpose of group re-organisation and that there is no change in the effective shareholding with respect to the company incorporated in

the Republic, the Commissioner-General may determine a nil value for that transfer except that this subsection shall not apply to a company that has not been part of the group of companies for at least three years preceding the transfer.

This amendment clarifies that relief under group re-organisation applies to a company that has been part of the subject group of companies for at least three years.

Prior to this amendment, relief under group re-organisation was provided for under the proviso to subsection 2A.

20.5.3 Section 5 of the principal Act is amended by the insertion of the following new subsection (2C):

(2C) For the purposes of this section, effective shareholding means the extent of control or ownership in the company incorporated in the Republic by the company incorporated outside the Republic expressed as a percentage.

This amendment defines the term “effective shareholding” for the purposes of Section 5 of the Property Transfer Tax Act.

20.5.4 Section 5 of the principal Act is amended by the renumbering of subsections (2B) and (2C) as (2D) and (2E), respectively.

(2D) For the purposes of this Act, a share, that is registered outside the Republic and that is transferred by a related company is deemed to have been a transfer by a company incorporated in Zambia if before the transaction, the company incorporated in Zambia was indirectly owned by a related company.

(2E) The Commissioner-General, in determining the realised value for shares, may make adjustments in accordance with the provisions of sections 97A and 97C on the Income Tax Act.

This amendment renumbers subsections (2B) and (2C) as (2D) and (2E), respectively. The change has been necessitated by the introduction of two new subsections on group re-organisation and definition of effective shareholding.

20.6 SECTION 6: EXEMPTIONS

Section 6 (1) (d) of the principal Act is amended by the deletion of the words “or trust”.

The new subsection reads as follows:

(d) any public benefit organisation listed as such under the Income Tax Act;

The amendment clarifies that only trusts approved under Section 41 of the Income Tax Act as Public Benefit Organisations qualify for exemption.

20.7 SECTION 9: RETURNS, NOTICES, ETC

Section 9 of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following:

(2) The provisional return referred to in subsection (1) shall be-

(a) in Kwacha except that where the transaction which is the subject of the provisional return is in another currency the values shall be converted into Kwacha at the appropriate Bank of Zambia midrate as at the end of the day immediately preceding the day on which the provisional return is submitted; and

(b) submitted –

(i) in the case of land, to the Commissioner of Lands together with the application for consent to transfer the property; and

(ii) in all other cases, to the Commissioner-General within thirty days of the transfer.

The amendment prescribes the exchange rate to be used for translating transactions that are in foreign currency into Kwacha when submitting the provisional return. The prescribed rate shall be the Bank of Zambia mid-rate as at the end of the day immediately preceding the day on which the provisional return is submitted.

Where the return is submitted on a day preceded by one on which the Bank of Zambia has not published the mid-rate, the appropriate rate to be used shall be the last published Bank of Zambia mid-rate.

21.0 THE MINES AND MINERALS DEVELOPMENT AMENDMENT ACT NO. 25 OF 2020

21.1 SECTION 1: TITLE AND COMMENCEMENT

This Act shall come into operation on 1st January, 2021.

21.2 SECTION 89: ROYALTIES ON PRODUCTION OF MINERALS

21.2.1 Section 89 of the principal Act is amended by the insertion of the following new subsection immediately after subsection (3):

(3) A mineral royalty may be paid in advance, as prescribed;

The amendment introduces the payment of mineral royalty in advance by holders of a mining licence.

The modalities and circumstances where this will apply will be prescribed by a Statutory Instrument or Gazette Notice.

21.2.2 Section 89 of the principal Act is amended by the renumbering of subsection (4), (5), and (6) as subsection (5), (6), and (7).

The amendment renumbers the subsections due to the introduction of the new subsection 4.

21.3 GENERAL AMENDMENT

The principal Act is amended by the deletion of the words “Metal Bulletin” wherever the words appear and the substitution therefor of the words “Fastmarkets MB”.

This amendment removes the reference to Metal Bulletin and replaces it with the rebranded name Fastmarkets MB.

22.0 SKILLS DEVELOPMENT LEVY AMENDMENT ACT NO. 24 OF 2020

22.1 SECTION 1: TITLE AND COMMENCEMENT

This Act shall come into operation on 1st January, 2021.

22.2 SECTION 4: CHARGE OF LEVY

Section 4 of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following:

(3) A levy payable by an employer shall not be deducted from the emoluments of an employee.

The amendment clarifies that the levy is payable by the employer.

23.0 THE TOURISM AND HOSPITALITY (TOURISM LEVY) (AMENDMENT) REGULATIONS STATUTORY INSTRUMENT NO. 121 OF 2020

23.1 TITLE AND COMMENCEMENT

These Regulations shall come into operation on 1st January, 2021.

23.2 REGULATION 8A: PENALTY FOR UNDER DECLARATION OF TOURISM LEVY

The principal Regulations are amended by the insertion of the following new regulation immediately after Regulation 8:

8A. A tourism enterprise or tourism facility that omits or understates a tourism levy on the tourism enterprise's or tourism facility's return shall pay a penalty of five percent of the amount omitted or understated, and for the purposes of recovery and collection, that penalty is deemed to be part of the tourism levy.

This amendment introduces a penalty for submitting an incorrect tourism levy return. The penalty shall be 5% of the amount omitted or understated.

23.3 GENERAL AMENDMENT

The principal Regulations are amended by the deletion of the words “Income Tax Act” wherever the words appear and the substitution therefor of the words “Value Added Tax Act”.

This amendment aligns the Tourism Levy Regulations to the Value Added Tax Act.

Following this amendment, the Indirect Taxes and Excise Division of the Zambia Revenue Authority will be responsible for the administration of the tourism levy.

24.0 THE VALUE ADDED TAX (AMENDMENT) ACT NO. 23 OF 2020

24.1 SECTION 1: TITLE AND COMMENCEMENT

This Act shall come into operation on 1st January, 2021.

24.2 SECTION 11: PLACE OF SUPPLY OF GOODS

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

(1) Goods shall be regarded, for taxation purposes, as being supplies in Zambia if-

- (a) the goods are exported from Zambia;*
- (b) the goods are supplied within Zambia;*
- (c) the supply of the goods involve entry into Zambia; and*
- (d) the supply involves installation or assembly of the goods at a place in Zambia.*

This amendment provides clarity on what constitutes the place of supply of goods in Zambia.

24.3 SECTION 19: PAYMENT OF TAX OR CREDIT

The principal Act is amended by the deletion of subsection (1A) and renumbering of subsection (1B) as subsection (1A).

The amendment rearranges the section by deleting the provision for a taxable supplier to have an electronic payment machine at a point of sale (1A) and renumbers 1B as 1A. The deleted provision has been moved and enhanced as the new Section 42C.

24.4 SECTION 21: ASSESSMENT OF TAX

The principal Act is amended by the deletion of subsection (6) and substitution therefor of the following:

(6) Despite the other provisions of this section, an assessment based on an incorrect or inadequate return is void if it is made two years after the Commissioner-General concludes an audit which revealed that incorrect or inadequate return.

This amendment introduces a starting point for determining the two-year period for an assessment based on an incorrect or inadequate return. This means that an assessment should be raised within two years of the Commissioner-General concluding an audit that has revealed the incorrect or inadequate return. An audit will be considered to have been concluded when the taxpayer has been notified through a notice of audit findings.

Note: This amendment does not restrict the Commissioner-General from re-auditing tax periods previously audited.

24.5 SECTION 34: DELEGATION BY COMMISSIONER-GENERAL

The principal Act is amended by the deletion of subsection (2).

This amendment removes a redundant provision.

24.6 SECTION 42C: USE OF ELECTRONIC PAYMENT MACHINE

The principal Act is amended by the insertion of the following new section immediately after section 42B:

42C. (1) A taxable supplier shall provide an electronic payment machine at a point of sale for use as a mode of payment for the customer.

(2) A taxable supplier who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding ninety thousand penalty units.

This amendment makes it mandatory for a taxable supplier to provide an electronic payment machine as a payment option and to use it upon request by a customer.

It is an offence for a taxable supplier:

- (i) Not to have an electronic payment machine at the point of sale; and
- (ii) To deny usage of the electronic payment machine as a payment option upon request by a customer.

Where there is network failure, it is expected that a customer shall be availed a printout from the payment machine as proof of failure to connect.

Failure to have an electronic payment machine or to avail it to a client on request is an offence and, on conviction, attracts a maximum fine of ninety thousand penalty units which is equivalent to K27,000.00.

Prior to the change, a taxable supplier was required to have a payment machine at a point of sale without an explicit obligation to avail it on request and no penalty was imposed for failure to comply.

Exemptions:

The following shall be exempted from the requirement to have a payment machine:

- (i) Suppliers that EXCLUSIVELY receive payments through electronic/bank transfers;
- (ii) Suppliers that EXCLUSIVELY receive payments through cheques; and
- (iii) Suppliers that EXCLUSIVELY receive payments through a combination of electronic/bank transfers and cheques; and
- (iv) Farmers that make seasonal sales.

24.7 SECTION 43: FALSE RETURNS AND STATEMENTS

The principal Act is amended by the repeal of section 43 and the substitution therefor of the following:

43. Any person who, in relation to a particular tax period makes a return or other declaration, furnishes any document or information or makes any statement, whether in writing or otherwise, that is false in any material particular commits an offence and is liable, on conviction in respect of that tax period, in the case of-

- (a) first offence, to a fine not exceeding sixty thousand penalty units;
- (b) second offence, to a fine not exceeding one hundred and twenty thousand penalty units;
- (c) third offence, to a fine not exceeding two hundred and forty thousand penalty units; and
- (d) for any subsequent offence, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

The change increases the penalty in respect of furnishing false returns, documents, statements or information and introduces a graduated penalty system for subsequent violations.

Following this amendment, the Kwacha equivalent amounts are as shown in the table below:

Table 10: Penalties for False Returns and Statements

Offence	Maximum penalty units	K/penalty unit	Kwacha Equivalent
First	60,000	0.30	18,000.00
Second	120,000	0.30	36,000.00
Third	240,000	0.30	72,000.00
Others	300,000	0.30	90,000.00

24.8 SECTION 44: EVASION OF TAXATION

The principal Act is amended in subsection (2) by the deletion of the word “thirty” and substitution therefor of the words “three hundred”.

The subsection now reads as follows:

(2) A person who deals in or accepts the supply or importation of any goods, or the supply of any services, having reason to believe that the proper tax has not been or will not be paid or that any deduction or credit has been or will be falsely claimed in relation thereto shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding three hundred thousand penalty units or six times the amount of the tax whichever is greater, or to imprisonment for a term not exceeding three years, or to both.

This amendment increases the fine for tax evasion, on conviction, to a maximum fine of three hundred thousand penalty units equivalent to K90,000 from thirty thousand penalty units equivalent to K9,000, while the other penalties under this section remain unchanged.

25.0 THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 81 OF 2020

25.1 TITLE AND COMMENCEMENT

This Order came into effect on 25th September, 2020 and shall stand revoked on 24th September, 2021.

25.2 GROUP 5: MEDICAL SUPPLIES

The principal Order is amended in Group 5 by the insertion of the following new paragraph immediately after paragraph (b):

(c) The supply of the following full body sanitisation equipment to combat the spread of Coronavirus Disease 2019:

(i) disinfection single entry chamber: HS Code 8424.89.00;

- (ii) self sanitising walk: HS Code 8424.89.00; and*
- (iii) safe guard – disinfectant and sanitiser: HS Code 2828.90.10*

This amendment zero-rates the specified full body sanitising equipment.

Note:

The listed items will cease to be zero-rated when supplied or imported after 24th September 2021.

26.0 THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 89 OF 2020

26.1 TITLE AND COMMENCEMENT

This Order is deemed to have come into operation on 1st October, 2020 and shall stand revoked on 30th September, 2021.

26.2 GROUP 5: MEDICAL SUPPLIES

The principal Order is amended in Group 5 by the insertion of the following new paragraph immediately after paragraph (c):

- (d) The following medical supplies:*
 - (i) diagnostic test instruments and apparatus;*
 - (ii) textile face mask without replaceable filter;*
 - (iii) gas masks with mechanical parts or replaceable filters;*

- (iv) plastic face shields;*
- (v) plastic gloves;*
- (vi) other rubber gloves;*
- (vii) knitted or crocheted gloves which have been impregnated or covered;*
- (viii) textile gloves that are not knitted or crocheted;*
- (ix) disposable hair nets;*
- (x) protective garments for surgical or medical use;*
- (xi) other protective garments of textiles of rubberized textile;*
- (xii) protective garments made from plastic sheeting;*
- (xiii) liquid filled thermometer of direct reading;*
- (xiv) other thermometers;*
- (xv) alcohol solution-undenatured 80% by volume;*
- (xvi) alcohol solution-undenatured, 75% ethyl alcohol;*
- (xvii) hand sanitizer;*
- (xviii) other disinfectant preparations;*
- (xix) medical, surgical or laboratory sterilizers;*
- (xx) hydrogen peroxide in bulk;*
- (xxi) hydrogen peroxide presented as a medicament;*
- (xxii) hydrogen peroxide put up as disinfectant preparation for cleaning surfaces;*
- (xxiii) other chemical disinfectant;*
- (xxiv) extracorporeal membrane oxygenation (ECMO);*
- (xxv) patient monitoring devices electro-diagnostic apparatus;*
- (xxvi) intubation kits, and*
- (xxvii) paper bed sheets*

The amendment zero-rates the above listed medical supplies in order to minimise the costs of some products needed in the fight against the COVID 19.

Disinfectants preparations that are zero-rated include antiseptic liquids such as Dettol, Savlon, Boom and Hygienix.

On the other hand, products such as, hand washing liquids, bar soaps, washing soaps (liquid, solid or powder), bathing soaps, bleaching agents, toilet cleaners, scourers and other surface cleaners remain standard rated.

Note:

The listed items will cease to be zero-rated when supplied or imported after 30th September 2021.

27.0 THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO.107 OF 2020

27.1 TITLE AND COMMENCEMENT

This Order comes into effect on 1st January, 2021.

27.2 GROUP 8: AGRICULTURAL EQUIPMENT AND ACCESSORIES

The principal Order is amended in Group 8 by the deletion of paragraph (e) and substitution thereof with the following:

(e) Tractors of HS codes 8701.91.10, 8701.92.10, 8701.93.10, 8701.94.10, 8701.95.10, including ploughs, harrows, disc harrows, planters, seeders, rippers or sub-soilers and cultivators of such tractors.

This amendment extends zero-rating to all agricultural tractors. Prior to this change, only agricultural tractors of up to 90HP were zero-rated.

28.0 THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER STATUTORY INSTRUMENT NO. 125 OF 2020

28.1 TITLE AND COMMENCEMENT

This Order comes into effect on 1st January, 2021.

28.2 AMENDMENT OF FIRST SCHEDULE

The First Schedule to the principal Order is amended by the insertion of the following new Group immediately after Group 11:

Group 12 - Petroleum Products

(a) Petrol; and

(b) Diesel.

This amendment zero-rates Petrol and Diesel supplies whether imported or locally sourced.

29.0 THE CUSTOMS AND EXCISE (AMENDMENT) ACT NO. 21 OF 2020

29.1 SECTION 1: TITLE AND COMMENCEMENT

This Act shall come into operation on 1st January, 2021.

29.2 SECTION 108: DUTIES OF LICENSED MANUFACTURER

The principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following:

(2) Where in a return made pursuant to this section, it is claimed that goods, on which excise duty has been paid, have been used as inputs in the manufacture of goods that are subject to excise duty and the Commissioner-General is satisfied that the claim is correctly made and supported by auditable management processes and records, the Commissioner-General may allow the duty so paid to be deducted from the duty due in that return.

This amendment removes the claim or deduction of surtax paid on inputs used in the manufacture of goods that are subject to excise duty or surtax.

29.3 SECTION 113: ENTRY AND SEARCH OF PREMISES

The principal Act is amended in subsection (1) by the insertion of the word “distributing” immediately after the word “manufacturing”.

The provision now reads as follows:

(1) An officer may at all times enter and search any premises licensed in terms of section ninety-seven or the premises of any person who sells goods liable to excise duty or surtax or who is suspected of manufacturing, distributing or selling such goods in contravention of or without complying with the provisions of this Act.

The amendment extends the powers of an officer to enter and search premises of persons suspected to be involved in distributing excisable products. Prior to this amendment, the powers were limited to the entry and search of premises of persons manufacturing and selling excisable products.

29.4 SECTION 115: SUPERVISION OF OPERATIONS

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

(1) An officer may supervise any activity connected with the manufacture, distribution or disposal of goods liable to excise duty or surtax.

The amendment extends the powers of an officer to supervise operations of distributors of excisable products. Prior to this change, the scope of this provision was limited to supervision of manufacturing processes and disposal of excisable goods.

29.5 SECTION 139D: DUTIES OF SERVICE PROVIDER

The principal Act is amended by the insertion of the following new subsection immediately after subsection (2):

(3) A service provider may make a claim for a deduction in a return submitted under this section that excise duty has been paid on airtime that is sold and the Commissioner-General may allow the duty paid to be deducted from the duty due in that return if the Commissioner-General is satisfied that the claim is correctly made and supported by auditable management processes and records.

This change introduces a provision for a service provider to claim or deduct excise duty paid on airtime bought for resale and actually sold.

Airtime means the minutes of voice calls, short message services (sms), multimedia service (mms), internet band width or such other services as a subscriber may consume through a mobile cellular telephone or any other electronic communications service;

29.6 SECTION 141: FALSE INVOICES, FALSE REPRESENTATION AND FORGERY

The principal Act is amended-

- (i) in subsection (1) by the deletion and substitution of paragraph (a) and the amendment of paragraphs (e) and (f)
- (ii) in subsection (2) by the amendment of paragraph (b) and the deletion and substitution of paragraph (c) (ii)

The new subsections 1 and 2 read as follows:

(1) Any person who—

- (a) produces any false invoice or an invoice framed so as to deceive, or makes any false representation in regard to the nature, the quantity or the value of any goods or services or the country in which such goods were grown, produced, or manufactured or services provided;*
- (b) forges any document required under this Act or any law relating to customs or excise;*
- (c) under false pretences or with intent to defraud or to evade the provisions of this Act or any law relating to customs or excise or by making any false statement, affidavit, or declaration procures or attempts to procure any such document as is mentioned in paragraph (b);*
- (d) being required to make or render any report, statement, document, bill of entry, declaration, or return, or to supply any information demanded or asked for, or to answer any question, neglects or refuses to do so, or makes or renders any untrue or false report, statement, document, bill of entry, representation, declaration, return or answer, or conceals or makes away with any goods required to be accounted for by this Act or any law relating to customs or excise;*
- (e) imports or attempts to import, or assists in, or is accessory to, or connives at the importation or attempted importation of any goods or services illegally or without payment of the duty thereon;*
- (f) deals with or assists in dealing with any goods or services contrary to the provisions of this Act or any law relating to customs or excise;*

shall be guilty of an offence, so, however, that nothing in the provisions of this Act shall be taken to require any person who has acted as legal practitioner for any person to disclose any privileged communications made to him in that capacity.

(2) Any person who—

- (a) uses or attempts to use any document which has been forged with intent to defeat the provisions of this Act or any law relating to customs or excise;*

- (b) otherwise than in accordance with the provisions of this Act, buys or receives or has in his possession any goods or services required to be accounted for by this Act or any law relating to customs or excise before they have been so accounted for; or
- (c) otherwise than in accordance with the provisions of this Act, has in his possession any goods liable to forfeiture under this Act or any law relating to customs or excise;

shall be guilty of an offence, unless he produces evidence to show that he did not know—

- (i) that the document was forged;
- (ii) that duty on the goods or services had not been paid or secured or that the goods or services had not been accounted for in terms of this Act or any law relating to customs or excise; or
- (iii) that the goods were liable to forfeiture;

as the case may be.

The amendment makes it an offence for a provider, buyer, or recipient of **excisable services** who submits a false invoice, makes false representation or forges a document. Prior to this change, the said offences were limited to a supplier, buyer, recipient or anyone in possession of excisable goods only.

29.7 SECOND SCHEDULE: EXCISE TARIFF

29.7.1 The Second Schedule is amended in heading 7 by the deletion of the figure “K265” in the Excise Duty Rate column opposite each subheading under heading 2402 and the substitution therefor of the figure “K302”.

The amendment increases the excise duty rate on cigars, cheroots, cigarillos and cigarettes of tobacco or of tobacco substitutes to K302 from K265 per mille (1000 sticks) or per Kg as applicable.

29.7.2 The Second Schedule is amended by the deletion of heading 12 and the substitution therefor of the following:

Table 11: Description of plastic Carrier Bags

Heading	Description of Goods	Harmonised Commodity Description and Coding System Heading	Statistical Unit of Quantity	Duty Rate
12	1) Carrier bags for shopping with or without handles	3923.21.91	Kg	30%
	2) Carrier bags for shopping with or without handles	3923.29.91	Kg	30%

The amendment clarifies the description of plastic carrier bags for shopping on which excise duty shall apply. The plastic carrier bags on which excise duty shall be charged are those with or without handles.

29.7.3 The Second Schedule is amended by the insertion of the following new heading immediately after heading 13.

Table 12: Excise Duty on Reconstituted or Recombined Milk

Heading	Description of Goods	Harmonised Commodity Description and Coding System Heading	Statistical Unit of Quantity	Duty Rate
14	(1) Reconstituted or recombined milk of a fat content, by weight, not exceeding 1%.	0401.10.12	Litre	K1.50/ltr
	(2) Reconstituted or recombined milk of a fat content, by weight, exceeding 1% but not exceeding 6%.	0401.20.12	Litre	K1.50/ltr
	(3) Reconstituted or recombined milk of a fat content, by weight, exceeding 6% but not exceeding 10%.	0401.40.12	Litre	K1.50/ltr
	(4) Reconstituted or recombined milk of a fat content, by weight, exceeding 10%.	0401.50.12	Litre	K1.50/ltr

The amendment introduces excise duty on reconstituted or recombined milk.

PART III: OTHER MATTERS

30.0 TAX TREATMENT OF EMPLOYMENT BENEFITS

Any payments made by the employer for the benefit of employees that cannot be converted into money or money's worth is non-deductible in the hands of the employer in accordance with section 44 (1). The tax treatment of employment benefit will depend on whether it is convertible into money or money's worth. If it is capable of being converted into money or money's worth it is subject to tax under PAYE whereas, if it is not convertible (not translated into actual money) then it will be non-deductible on the employer subject to section 44(1).

“Money or money's worth” is any expenditure that is of direct monetary value to a person and may relate to money, security, tangible property, intangible property, or services that can be reduced to money's value. Therefore, the monetary value may be applied whether or not it is convertible into money or money's worth.

Factors to consider for benefits that cannot be converted into money or money's worth are dealt with under (iii).

(i) Payment of employees' bills (benefits convertible into money's worth)

Where an employer discharges the liability of an employee by paying his or her private bills or expenses such as electricity, phone or water bills, rent, school fees, 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 Pay As You Earn (PAYE). Such expenses will be an allowable deduction in the hands of the employer.

Rental of Accommodation Owned by the Employer

Where an employer pays a housing allowance to an employee and the employee in turn rents accommodation owned by that employer, the employee's allowance shall be subjected to PAYE while the payment of rent shall be liable to withholding tax.

Note:

It is expected that the rent charged reflects the economic value of accommodation based on the type of structure and the location.

(ii) Benefits that cannot be converted into money or money's worth

Benefits which cannot be converted into money or money's worth are not taxable on employees. However, no deduction in respect of the cost of providing the benefit may be claimed by the employer [section 44(1) of the Income Tax Act].

Non-money fringe benefits are those benefits or advantages that cannot be converted into money or money's worth where any three or more of the following factors apply:

- Not capable of being converted into actual money by the employee
- Not capable of being converted into a pecuniary benefit by the employee
- Not capable of disposal or transfer by the employee
- Not owned by the employee
- Received with restrictive terms and conditions
- One can use it or forfeit.

Examples:

Free Housing:

Where an employer provides free housing to an employee, an employee can only live in the house and is not allowed to lease out. The employee cannot therefore convert the free housing benefit into cash or any other pecuniary benefit nor can they transfer or dispose of the benefit or advantage of free housing.

Airtime:

Where an employer buys airtime for an employee with a condition that the airtime so credited to the employee, is for the sole use of the employee, the benefit or advantage is not convertible into money or money's worth as the employee cannot convert the airtime into cash, or any other pecuniary benefit nor can the employee transfer or dispose of the airtime.

Free Fuel:

Where an employer provides fuel to an employee which may be bought through credit in a fuel card and the condition is that the amount can only be used on a specific fuel type and in some cases also on a specific car, the benefit or advantage in this case is not convertible into money or money's worth because the employee cannot exchange the fuel for anything nor can the fuel be transferred or disposed of.

- (a) In the case of residential accommodation provided to an employee by the employer in a house owned by that employer, 30% of the taxable income paid to the employee shall be disallowed in the employer's tax computation, provided that where an independent and objective valuation is made for such accommodation, the cost to be disallowed shall be the value of that accommodation. For the purpose of verifying the rental value, the Commissioner-General may use assessments done by the Government Valuation Department or other registered valuation surveyors.

Payments for utilities such as electricity, phone or water bills, security and similar payments are not included in the meaning of free housing.

Note:

Where the employee pays a below-market rate (peppercorn rent) to the employer, the cost to be disallowed in the employer's tax computation is 30% of the total taxable emoluments paid to the employee.

- (b) In the case of housing leased by the employer and provided to an employee:
- (i) Where housing is occupied by a single employee, the amount of rentals will be added to the employee's emoluments and taxed under PAYE.
 - (ii) Where housing is occupied by more than one employee, the total amount of the rentals will be disallowed in the employer's tax computation.

(c) Taxation of Fringe Benefits

1) Provision of Services below market price.

Where the employer provides services to their employees below the open market value, the benefit or advantage that the employee enjoys shall be treated as below:

- The difference between the open market value and the value at which the services are provided to the employee will be disallowed in the hands of the employer

2) Provision of Goods below market price

Where the employer provides goods to their employees below the open market value, the benefit is convertible to money or money's worth and shall be treated as below:

- The difference between the open market value and the value at which the goods are provided to the employee will be taxable under PAYE. The employer may thus gross up and account for the tax accordingly.

(d) 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:

Engine capacity of motor vehicle

- 2800cc and above - K40,000.00 per annum
- 1800cc and below 2800cc - K30,000.00 per annum
- Below 1800cc - K18,000.00 per annum

A personal-to-holder vehicle means a vehicle provided to an employee for both business and personal use and usually involves payment by the employer of all the expenses associated with the running and maintenance of the vehicle.

(iii) Cash benefits paid in the form of allowances.

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

Examples of such cash benefits are:

- Education allowance;
- Housing allowance;
- Transport/fuel allowance;
- Domestic utility allowances e.g. for electricity, phone and water;
- Commuted car allowance;
- Settling in allowance;
- Allowances paid in recognition of an employee's professional qualifications etc.

30.1 PAYMENTS THAT ARE NOT SUBJECT TO PAY AS YOU EARN (PAYE)

The following payments are exempt (not chargeable to income tax) and 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 Second Schedule to the 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 Second Schedule to the Income Tax Act).

(v) Labour Day Awards

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

31.0 TAX TREATMENT OF CERTAIN EXPENSES

31.1 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 those services is allowable;
- b) where entertainment is provided free of charge with the purpose of obtaining publicity from the general public e.g. free seats for critics at a cinema;
- c) where an employer provides entertainment such as Christmas Party for employees or hospitality for employees in form of meals, accommodation etc. on business trips;
- d) where a person gives gifts which bear an advertisement for the donor, e.g. calendars, pens, key holders, diaries and other such like items, as long as the cost of the gift(s) to any one person does not exceed K100 in a charge year. The cost of gifts in excess of K100 to the same person is disallowable.

Note:

- (i) Employees receiving entertainment allowances will be taxed under PAYE and the amount would be disallowable to the employer.

- (ii) Where an employer defrays entertainment expenses directly, the cost will be disallowable to the employer but there will be no charge on the employee unless the normal rules regarding benefits apply.

31.2 TAX TREATMENT OF CANTEEN EXPENSES, REFRESHMENTS AND FOOD RATIONS

Where the employer incurs expenditure on the provision of refreshments, canteen meals, food rations 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(1) of the Income Tax Act, the whole expenditure on refreshments, canteen meals etc. is disallowable on the employer.

However, where an employer is obliged to provide meals to employees either under any other law or circumstances peculiar to the employer, the cost may be deductible.

Where the provision of such food is a legal obligation, the full cost of providing the food ration may be an allowable deduction.

32.0 PAYMENTS ON CESSATION OF EMPLOYMENT

The following payments may be made on cessation of employment by way of dismissal, resignation, end of contract term, redundancy/retrenchment, retirement or death:

- (a) Pension
- (b) Refund of employee's pension contributions
- (c) Withdrawal of employer's pension contributions
- (d) Gratuity
- (e) Redundancy pay
- (f) Severance pay or compensation for loss of office
- (g) Salary in lieu of notice
- (h) Repatriation allowance
- (i) Service bonuses eligible for payment only at the end of employment
- (j) Monthly salary
- (k) Commutation of accrued leave days
- (l) Accrued service bonuses

Following the amendment to the Constitution, with effect from 5th January 2016, the payments below are exempt from tax as they fall within the definition of pension benefit:

- (a) Pension;
- (b) Refund of employee's pension contributions;
- (c) Withdrawal of employer's pension contributions;
- (d) Gratuity;
- (e) Redundancy pay;

- (f) Severance pay or compensation for loss of office;
- (g) Salary in lieu of notice;
- (h) Repatriation allowance; and
- (i) Service bonuses eligible for payment only at the end of employment.

On the other hand, the following payments are taxable under the applicable PAYE bands:

- (j) Monthly salary;
- (k) Commutation of accrued leave days; and
- (l) Accrued service bonuses.

The monthly salary, commutation of accrued leave days and accrued service bonuses are taxable because they are emoluments that have been earned during the course of one's employment. Note that accrued service bonus is one which is linked to performance and is taxable in the period in which it accrues.

32.1 TAX TREATMENT OF PAYMENTS MADE ON MEDICAL DISCHARGE

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

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

33.0 TAX TREATMENT OF ADVANCE AGAINST GRATUITY, PENSIONS AND EMPLOYEE PENSION WITHDRAWALS BY AN INDIVIDUAL CONTINUING IN EMPLOYMENT

Payments in the form of advances against gratuity, pensions and employee pension withdrawals are exempt from tax because they constitute pension benefits.

34.0 TAX TREATMENT OF SETTLING IN ALLOWANCES

Settling in allowances, by whatever name called, paid to new employees and employees on transfer constitute an individual's income and should be subjected to tax under the PAYE Scheme.

35.0 TAXATION OF RENTAL INCOME

Rental income received by any person is subject to withholding tax at the rate of 10% and it is a final tax. However, landlords may obtain approval from the Commissioner-General to receive rentals without the deduction of withholding tax subject to the conditions that the Commissioner-General may prescribe.

Note:

The obligation to withhold tax will not apply to furnished apartments, boarding house owners and operators of car park facilities. These are allowed to pay tax under the turnover tax or normal income tax depending on whether the gross receipts are below or above the annual turnover threshold of K800,000.00.

35.1 Withholding Tax System

35.1.1 Tenant's obligations

A Tenant must –

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

Note:

Payment is deemed to be made at the earliest of the following:

- (a) the time when payment is made; or
- (b) the time when income accrues to a landlord; or
- (c) the time when income is in any way due to a landlord or held to that landlord's order or on their behalf.

35.1.2 Landlord's obligations

A landlord must –

- (i) register for a Taxpayer Identification Number (TPIN);
- (ii) provide their TPIN and details of the rented property to the tenant; and
- (iii) declare and pay the tax in a case where they receive gross rentals.

35.1.3 Landlord's obligations where Commissioner-General grants approval to receive rental income without the deduction of tax

35.1.3.1 Application

Section 82A empowers the Commissioner-General to issue a withholding tax exemption certificate to persons in receipt of rental income. This is in order to allow landlords to receive gross rental income without the deduction of withholding tax (WHT).

To be eligible for this scheme, landlords are required to apply to the Commissioner-General stating therein grounds for such application and where necessary attach the appropriate tenancy agreements.

If satisfied with the reasons for the application and compliance status, the Commissioner-General may grant the withholding tax exemption.

35.1.3.2 Obligations

Any person that has been granted approval to receive gross rentals will be required to account for tax under their own income tax account. That landlord will have the following tax obligations:

- (i) register for Taxpayer Identification Number (TPIN) and Income Tax;
- (ii) remit the tax to Zambia Revenue Authority by the 14th day of the month following the month in which income is received;
- (iii) submit annual returns
- (iv) keep records.

35.1.4 Penalties for non-compliance by the tenant

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

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

36.0 VALUE ADDED TAX TREATMENT OF VARIOUS SERVICES

36.1 HIRE OF EQUIPMENT FOR LOADING AND OFFLOADING OF PASSENGERS FROM AIRCRAFT

The service is not exempt from VAT and is not zero-rated as such should be subject to VAT at standard rate. It should be noted that this service is distinct from transportation of persons by air which is exempt.

36.2 LOADING OF CARGO FOR EXPORT FROM ZAMBIA

The service of loading cargo for export, including exports out of bond, is standard rated.

36.3 OFFLOADING OF CARGO FROM OUTSIDE ZAMBIA

The service of offloading imports into Zambia is standard rated.

36.4 ANCILLARY SERVICES RELATING TO GOODS TRANSITING THROUGH ZAMBIA

The law relating to freight transport services is provided in Group 1(b) of the Value Added Tax Zero-Rating Order and states as follows:

Group 1 - Export of Goods

- (b) the supply of freight transport services-
- (i) from or to the Republic; and
 - (ii) from outside the Republic to other places outside the Republic transiting through the Republic including transshipment.

Effective 1st January 2020, ancillary services provided in relation to transit of goods through Zambia from outside the Republic to destinations outside the Republic are standard rated with the exception of transshipment.

Therefore, services such as escort security services, clearing services and storage services are standard rated.

Note:

Transshipment is the moving of cargo that is in transit from one vessel of transportation to another under customs control.

In light of the definition above, it means that the services that are zero-rated under transshipment are charges for cranes, folk lifts and other services utilised in moving cargo from one vessel of transportation to another under customs control.

36.5 COLD CHAIN SERVICES

Services that are rendered to facilitate the exportation of perishables from Zambia to destinations outside Zambia are standard rated.

36.6 CLEARING AND FORWARDING SERVICES

Clearing and forwarding services are standard rated.

Table 13: Summary of Value Added Tax treatment of ramp services

TYPE OF SERVICE	TREATMENT PRIOR TO JANUARY 2014	CURRENT VAT TREATMENT
EQUIPMENT HIRE FOR EMBARKING AND DISEMBARKING PASSENGERS	STANDARD RATED	STANDARD RATED

LOADING OF CARGO FOR EXPORT	ZERO RATED	STANDARD RATED
OFFLOADING OF CARGO INTO ZAMBIA - IMPORTS	STANDARD RATED	STANDARD RATED
ANCILLIARY SERVICES RELATING TO GOODS TRANSITING THROUGH ZAMBIA (EXCEPT TRANSSHIPMENT)	ZERO RATED	STANDARD RATED

37.0 PARTIAL APPORTIONMENT FOR LEASING

A Finance Lease comprises the following:

- (i) the principal (capital) which is standard rated; and
- (ii) the interest that is exempt.

In accordance with Section 18 and Rule 10, a taxable supplier carrying on the business of finance leasing is required to apportion the input tax using methods provided in Second Schedule to the VAT Administrative Rules. Therefore, input tax on the asset and other expenses incurred for the purpose of rendering finance leasing should be apportioned.

38.0 VAT TREATMENT OF IMPORTED SERVICES (REVERSE VAT)

Where a person imports a service from a foreign supplier, the following tax treatment will apply.

1. An importation of an exempt service by a taxable supplier is not liable to reverse VAT;
2. An importation by a person not eligible to register based on nature of supplies (exempt supplies) or nature of person (privileged person) is outside the scope of reverse VAT; and
3. A supplier dealing in taxable supplies but not registered due to not meeting the registration conditions under Section 28 (taxable turnover below threshold), is outside the scope of reverse VAT administration.

39.0 WITHHOLDING TAX ADMINISTRATION ON WINNINGS

Winnings from lotteries, betting and gaming is subject to withholding tax. A winning is defined for the purposes of collecting withholding tax as follows:

For Lotteries:

Anything won, whether in money or in money's worth

For gaming or betting:

Anything won from gaming or betting in money or money's worth less the total amount staked by the person.

Example 8: WHT calculation on winnings

Calculation of Taxable Value for WHT on gaming or betting:

- i) Punter 1
Initial Deposit (stake) = 100
Payout = 180
Winnings = 80
- Taxable Value = $180 - 100 = 80$
- WHT will be calculated on K80
 $20\% \text{ of } 80 = \text{K}16$
K16 is the amount to be withheld.

40.0 PENALTY FOR UNDER DECLARATION OF TOURISM LEVY

Example 9: Calculation of Penalty for Under declaration of Tourism Levy

SELF-ASSESSMENT BY TAXPAYER

A taxpayer declares tourism levy in their return as follows:

	K
(i) Accommodation for 2 nights at K750.00	1,500.00
(ii) Meals and beverages	600.00
(iii) Conference room	<u>1,000.00</u>
Total	3,100.00
Tourism levy at 1.5%	46.50

RECOMPUTED TOURISM LEVY

After an audit, it is discovered that the taxpayer had understated the amounts and the return should have been as follows:

	K
(i) Accommodation for 5 nights at K750.00	3,750.00
(ii) Meals and beverages	1,000.00
(iii) Conference room	<u>1,500.00</u>
Total	6,250.00
Tourism Levy due (1.5%)	93.75
Tourism Levy already declared	<u>(46.50)</u>
Tourism Levy underdeclared	47.25

COMPUTATION OF PENALTY

	K
(i) Accommodation amount omitted (3750 – 1500)	2,250.00
(ii) Meals and beverages amount omitted (1000 – 600)	400.00
(iii) Conference room amount omitted (1500 – 1000)	<u>500.00</u>
Total amount omitted	3,150.00
Penalty (5% of K3,150)	157.50
TOTAL PAYABLE	
Penalty due	157.50
Under declared	<u>47.25</u>
TOTAL	204.75

41.0 TAX RATES

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

Table 14

Income Bands	Rates
First K48,000	@ 0%
Above K48,000 up to K57,600	@ 25%
Above K57,600 up to K82,800	@ 30%
Above K82,800	@ 37.5%

(e) **Turnover Tax Rates:**

Table 15

Turnover per annum	Tax rate
800, 000 or below	4%

(f) **Presumptive Tax:** Tax on motor vehicles for the carriage of persons is as follows:

Table 16

Type of vehicle (sitting capacity)	Amount of tax per vehicle vehicle (per annum)
64 seater and above	K10,800
50-63 seater	K9,000
36-49 seater	K7,200
22-35 seater	K5,400
18-21 seater	K3,600
12-17 seater	K1,800
Below 12 seater (including taxis)	K 900

(g) **Base Tax:**

Table 17

Base Tax per annum
K 365

(h) **Other Income Tax Rates**

Table 18

Category	Rate (%)
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Mineral processing	35
Mining	30
Manufacturing of products using copper cathodes	15
Manufacturing & other companies	35
Approved Public Benefit Organisation (on income from business)	15
Agro-processing	10
Farming	10
Non-traditional exports – Agro-processing and Farming	10
Non-traditional exports – Others	15
Chemical manufacture of fertilizer	15
Organic manufacture of fertilizer	15
Trusts, deceased or bankrupt estates	35
Rural enterprises	Tax chargeable reduced by 1/7 for 5 years
Business enterprise operating in a priority sector declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained prior to 1 st January 2013)	0% for the first 5 years, starting from the first year profits are returned
	Rate reduced by 50% from 6-8 years, after profits are returned
	Rate reduced by 25% from 9-10 years, after profits are returned
	No reduced rate after 10 th year profits are returned.
Small and Micro Enterprises operating in an urban area under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained prior to 11 th October 2013)	0% for the first 3 years
Small and Micro Enterprises operating in an rural area under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained prior to 11 th October 2013)	0% for the first 5 years
Business enterprise operating in a priority sector, multi facility economic zone and industrial park declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained between 1 st January 2013 and 10 th October 2013)	0% for the first 5 years, starting from the year of commencement of operations of the approved investment

	Rate reduced by 50% from 6-8 years starting from the year of commencement of operations of the approved investment
	Rate reduced by 25% from 9-10 years starting from the year of commencement of operations of the approved investment
	No reduced rate after the 10 th year starting from the year of commencement of operations of the approved investment
Rural Business, Business enterprise operating in a Multi Facility Economic Zone or Industrial Park declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained between 11 th October 2013 to 31 st December 2014)	0% for the first 5 years from commencement of operations of the approved investment
Business enterprise carrying on manufacturing activities in a rural area, Multi Facility Economic Zone or Industrial Park (For ZDA licence holders obtained between 1 st January 2015 and 31 st December 2016)	0% for the first 5 years from commencement of operations of the approved investment
Business enterprise carrying on manufacturing or electricity generation located in a rural area, Multi Facility Economic Zone or Industrial Park (For ZDA licence holders obtained between 1 st January 2017 and 31 st December 2017)	0 % for the first 5 years from commencement of operations of the approved investment.
Business Enterprises operating in a priority sector declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained on or after 1 st January 2018)	Claim on a straight-line basis, wear and tear at an accelerated rate, not exceeding 100% in respect of any new implement, plant or machinery acquired and used by the business for the purposes of that business.
Electronic communication business:	
First K250, 000	35
Above K250, 000	40

(i) Withholding Tax Rates

Table 19

Category	Rate (%)
Dividends (Resident)	15
Dividends (Non-Resident)	20
Dividends paid by a company carrying on mining operations	0
Dividends paid to an individual by a company listed on the Lusaka Securities Exchange (LUSE)	0
Dividends paid by a company engaged in the assembly of motor vehicles, motor cycles and bicycles	0 (First 5 years)
Dividends declared from farming income	0 (First 5 years)
Dividends paid by a business enterprise operating in a priority sector declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained prior to 1 st January 2013)	0% for the first 5 years from the year profits are declared
Dividends paid by a business enterprise operating in a priority sector, multi facility economic zone and industrial park declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained between 1 st January 2013 and 10 th October 2013)	0 % for the first 5 years from commencement of operations
Dividends paid by a rural business, business enterprise operating in a Multi Facility Economic Zone or Industrial Park declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained between 11 th October 2013 to 31 st December 2014)	0% for the first 5 years from commencement of operations of the approved investment
Dividends paid by a business enterprise carrying on manufacturing activities in a rural area, Multi Facility Economic Zone or Industrial Park (For ZDA licence holders obtained between 1 st January 2015 and 31 st December 2016)	0% for the first 5 years from commencement of operations of the approved investment
Dividends paid by a business enterprise carrying on manufacturing or electricity generation located in a rural area, Multi Facility Economic Zone or Industrial Park (For ZDA licence holders obtained between 1 st January 2017 and 31 st December 2017)	0 % for the first 5 years from commencement of operations of the approved investment
Interest on GRZ bonds and Treasury Bills – Residents (Final Tax for Individuals & Exempt Organisations only)	15
Interest on GRZ bonds and Treasury Bills – Non-Residents	20
Interest for individuals (earned from banks or building societies, savings and deposit accounts)	0

Interest (Residents)	15
Interest (Non-Residents)	20
Royalties (Residents)	15
Royalties (Non-Residents)	20
Rent (Final Tax)	10
Commissions (Residents)	15
Commissions paid to Non-Resident persons (Final Tax)	20
Public Entertainment Fees for Residents	Not applicable
Public Entertainment Fees for Non-Residents (Final Tax)	20
Management and Consultancy Fees to Residents	15
Management and Consultancy Fees to Non-Residents	20
Management or consultancy fees and interest paid to a non-resident contractor by a business enterprise operating in a priority sector declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained prior to 1 st January 2013)	0% for the first 5 years from the first date that the payment was due.
Management or consultancy fees and interest paid to a non-resident contractor by a business enterprise operating in a priority sector, multi facility economic zone and industrial park declared under the Zambia Development Agency Act, 2006 (For ZDA licence holders obtained between 1 st January 2013 and 10 th October 2013)	0% for the first 5 years from commencement of operations of the approved investment
Payments to Non-Resident Contractors (Final Tax)	20
Payment for Distribution of Branch Profits	20
Payment of Winnings from Gaming, Lotteries and Betting	20
Commodity Royalty	15

Note:

- (i) Interest includes that awarded by the Courts of Law.
- (ii) The term “Royalty” includes income from leasing and therefore leasing income is subject to withholding tax. This determination is derived from the definition of royalty which recognises a payment for the use of or right to use commercial, industrial, or scientific equipment as a royalty. Payments for hiring of commercial, industrial, or scientific equipment attract royalties. Note that the application of withholding tax excludes a finance lease.

(g) VAT Rates

Table 20

Category	Rate (%)
Standard Rate	16%
Zero-Rate	0%
Exempt	Not taxable

(h) Local Excise

Table 21

Excisable Product	Statistical Unit of Quantity	Rate
Cigarettes	Mille	145% or K302 (whichever is greater) per mille
Pipe Tobacco	Kg	145% or K302 (whichever is greater) per Kg
Cutrag & Other tobacco products	Kg	145% or K302 (whichever is greater) per Kg
Clear Beer	Litre	60%
Opaque Beer	Litre	K0.15
Diesel	Dekalitre	Fuel Levy K6.60 per dekalitre
Petrol	Dekalitre	Excise K11.43 per dekalitre, fuel levy K8.27 per dekalitre
Fuel Oil	Dekalitre	Excise K9.30 per 10litre
Hydrocarbon Gases	Litre	Excise K0.48 per litre
Aviation Spirit	Dekalitre	K4.80 per dekalitre
Jet Fuel	Dekalitre	K4.80 per dekalitre
White Spirit	Dekalitre	15%
Kerosene	Dekalitre	K4.80
Other Light Oils	Dekalitre	15%
Ethyl Alcohol and other spirituous	Litre	125%
Potable Spirits	Litre	125%
Wines	Litre	60%
Undenatured Ethyl Alcohol of an alcoholic strength by volume less than 80%	Litre	60%
Airtime	Minute for voice, Megabyte for data and Count for SMS	17.5%
Cosmetics	Kg	20%
Carrier Bags for Shopping	Kg	30%
Electric Energy	100kWh	3%
Plastic Bags	Kg	30%
Cement	Tonne	K40 per tonne
Fruit Juices, Unflavoured and Unsweetened Waters, Flavoured or Sweetened Waters	Litre	K0.30 per litre
Reconstituted or recombined milk of a	Litre	K1.50/ltr

fat content, by weight, of less than 1% up to a maximum of 10%.		
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(i) Property Transfer Tax Rates

Table 22: Property Transfer Tax Rates

Category	Rate (%)
Land (including buildings, structures or improvements there on)	5%
Shares	5%
Intellectual Property (including trademarks, patents, copyright or industrial design)	5%
Mining Right/ Interest in Mining Right	10%

(j) Mineral Royalty

Table 23: Copper

Norm Price Range	Mineral Royalty Rate
Less than US\$4,500	5.5%
US\$4,500 but less than US\$6,000	6.5%
US\$6,000 but less than US\$7,500	7.5%
US\$7,500 but less than US\$9,000	8.5%
US\$9,000 and above	10%

Table 24: Other Minerals

Description	Mineral Royalty Rate
Base Metals (Other than Copper, Cobalt and Vanadium)	5% of norm value
Energy and Industrial Minerals	5% of gross value
Gemstones	6% of gross value
Precious Metals	6% of norm value
Cobalt and Vanadium	8% of norm value

(k) Tax on Betting and Gaming

Table 25: Tax on Betting and Gaming

Type of Game	Monthly Tax Rate or Monthly Tax Amount
1. Casino Live games	20 percent of gross takings
2. Casino Machine Games	35 percent of gross takings
3. Lottery Winnings	35 percent of net proceeds
4. Betting	25 percent of gross takings
5. Gaming: (a) Slot Machines (Bonanza)	K250 per machine

(b) Gaming Machines (Limited Pay Out)	K500 per machine
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(k) Other Rates – Insurance Premium Levy, Skills Development Levy, Tourism Levy

Table 26: Other Rates

Type of Levy	Rate (%)
Insurance Premium Levy	3
Skills Development Levy	0.5
Tourism Levy	1.5

(l) Penalty Units

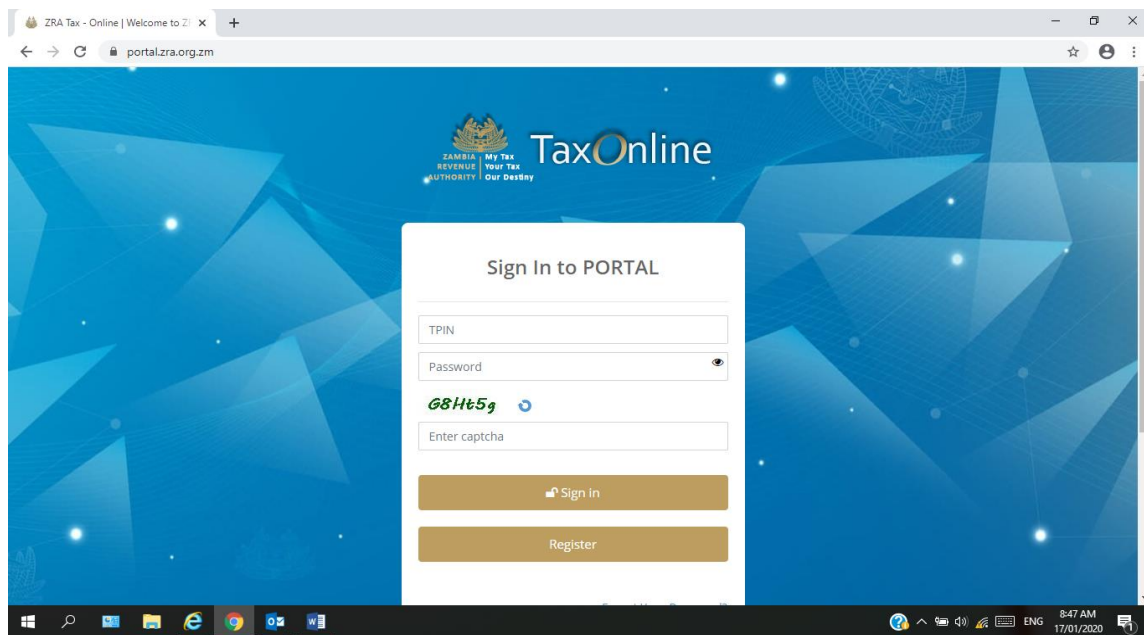
A penalty unit is K0.30.

42.0 MISCELLANEOUS MATTERS

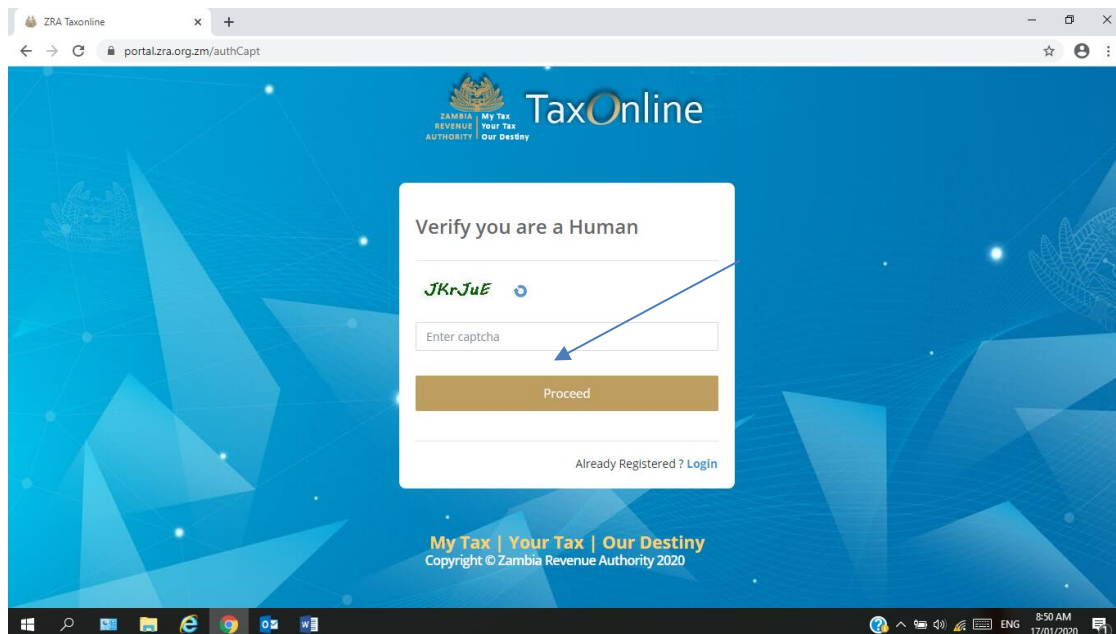
42.1 Application For TaxPayer Identification Number (TPIN)

To apply for a TPIN on the web portal go to the ZRA Home page www.zra.org.zm, ensure that you use **Chrome, Edge or Firefox** as your browser.

Step 1: Click on Taxonline at the bottom left of the page, this will redirect you to the screen below:



Step 2: Select **Register** to start your registration, and enter the **CAPTCHA** this is just to verify that you are not a system bug.



Step 3: Select type of taxpayer on the home page and begin your registration. There are a number of options on the dropdown screen. Tax type selection have been automated depending on the Business activity you have selected from PACRA.

The screenshot displays the 'TaxOnline' interface for the Zambia Revenue Authority. The main menu on the left includes 'Home'. The registration form is titled 'Taxpayer type information' and contains the following fields:

- Taxpayer Type ***: A dropdown menu currently showing 'Other'.
- Full Names ***: A text input field labeled 'TAXPAYER FULL NAMES' with a sub-label 'Taxpayer Name'.
- Mobile number ***: A text input field with an example 'E.G. 0971000000'.
- E-mail address ***: A text input field with an example 'EMAIL@EXAMPLE.COM' and a note 'This field is required.'.
- Physical Address ***: A section containing:
 - Plot / House Number ***: A text input field labeled 'ENTER PLOT/HOUSE NUMBER'.
 - Street**: A text input field labeled 'Enter Plot/House Number'.
 - Area ***: A text input field labeled 'ENTER AREA' and 'Enter Area'.

A map icon with the text 'Pin location on the Map' is also present. The browser address bar shows 'portal.zra.org.zm/taxpayerRegPortal#'. The system clock at the bottom right indicates '9:23 AM 17/01/2020'.

Step 4: Complete the taxpayer type information then click next to select the **reason for registration**.

Step 5: Upload documents. This will depend on the type of taxpayer, for example;

(a) Individual resident

1. Copy of NRC
2. Sketch
3. map of physical address

(b) Individual other

1. Passport
2. map of physical address

(c) Company resident

1. Certificate of incorporation
2. Certificate of share capital
3. PACRA form 3
4. Map of physical address **etc ...**

➤ The system has a provision for you to pin your location when uploading documents.

Note:

- TPINs and Login credentials for Business Names and Limited Companies will be sent to emails and mobile because there is an interface between Zambia Revenue Authority and PACRA.
- When you receive your default password, proceed to our website to complete your Tax type registration.
- Approvals for TPINs have been automated and are approved with immediate effect, and a copy will be sent to your email and a notification to your mobile phone.
- Log in Credentials must be created once the TPIN has been generated in order for you to have access to the online portal.
- All Notices and Certificates generated on the new system are now secured with QR code number and Watermark.

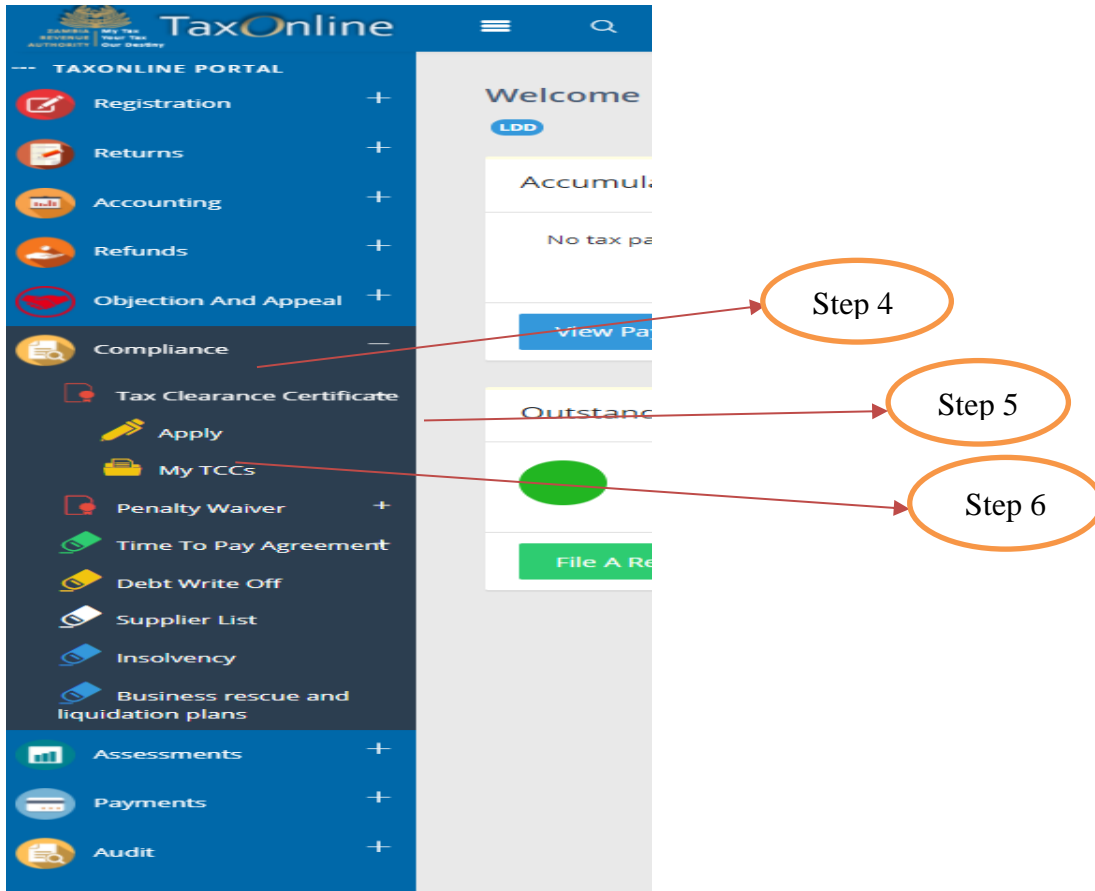
42.2 Platforms for TPIN Registration:

- **All handsets:** Use the USSD Code *858# on Zamtel or Airtel networks, using any handset, click on TPIN Registration and follow the prompts.
Smart phones only: Download “TaxOnApp” from Play Store or from App Store. Once you have clicked on the installed App, click on TPIN Registration and follow the prompts.
Online application: Go to the ZRA website <https://www.zra.org.zm/> and click on the link “INDIVIDUAL” for an individual TPIN or “BUSINESS” for a business TPIN. Under the group Registration, click Get a TPIN and follow the prompts.

42.3 Application for Tax Clearance Certificates (TCC)

To apply for a Tax Clearance Certificates (TCC) Kindly follow the steps below.

- Step 1: Go to the ZRA Home page www.zra.org.zm, ensure that your use Chrome, Edge or Firefox as your browser.
- Step 2 : Select Login
- Step 3 : Log in to your account using your TPIN and password
- Step 4 : Go to Compliance
- Step 5 : Select Tax Clearance Certificate
- Step 6 : Click on Apply



- The TCC will then be generated and can be printed or saved.

42.4 EFD information:

Contact email address through which to seek Electronic Fiscal Device or “EFD” assistance or information send an email to efdhelp@zra.org.zm.

42.5 Reporting TaxOnline System Challenges:

Contact email address through which to seek TaxOnline information or assistance– send an email to advice@zra.org.zm.

42.6 Leaflets and other tax information:

To view leaflets and other tax documents, go to the ZRA website <https://www.zra.org.zm/> and click on ‘General Tax Information’

42.7 Tax Video Tutorials:

To access video tutorials on various online tax processes, go to the ZRA website <https://www.zra.org.zm/> and click on ‘Tutorials’

42.8 Reporting complaints of unethical nature:

- Write to: Chairperson – ZRA Integrity Committee, P.O. Box 35710, Lusaka OR
- Email: zraic@zra.org.zm or
- Phone: +260978701701 or;
- Drop your complaints in the Suggestion box at any of the ZRA stations

43.0 APPENDIX

**SCHEDULE 1 (Regulation 22A of the Transfer Pricing Regulations)
STANDARD TEMPLATE FOR COUNTRY-BY-COUNTRY REPORT**

Tangible assets other than cash and cash equivalent									
Number of employees									
Accumulated earnings									
Stated capital									
Income tax accrued-current year									
Income tax paid (on cash basis)									
Profit (loss) before income tax									
Total									
Related party									
Unrelated party									
Tax Jurisdiction									

OVERVIEW OF ALLOCATION OF INCOME, TAXES AND BUSINESS AACTIVITIES BY TAX JURISDICTION

SCHEDULE 2
(*Regulation 2* of the Income Tax (Local Content Allowance Regulations))

**AGRICULTURAL PRODUCTS ALLOWED FOR LOCAL CONTENT
ALLOWANCE**

1. Cassava
2. Pineapple
3. Mango

44.0 ZAMBIA REVENUE AUTHORITY CONTACT ADDRESSES:

If you have any queries concerning your taxes, please contact the Customer Experience Centres or your nearest Direct Tax Office or the Indirect Taxes and Excise Tax Office at the following addresses:

- | | |
|--|---|
| <p>1 National Call Centre
New Revenue Hall
P.O. Box 35710
Lusaka
Tel: Zamtel Network: (0211) 381111
MTN Network: 0960 091111
Airtel Network: 0971 281111
Short code: 5972
Website: http://www.zra.org.zm</p> | <p>2 Taxpayer Services Centre
Nchanga House
P.O. Box 20855
Kitwe
Tel: Zamtel Network: (0211) 384529
MTN Network: 0960 094529
Airtel Network: 0971 284529
Website: http://www.zra.org.zm</p> |
| <p>3 Assistant Director
Direct Taxes LSTO – Returns, Payments
& Taxpayer Services
P.O. Box 35710
Lusaka
Tel: Zamtel Network: (0211) 382649
MTN Network: 0960 092649
Airtel Network: 0971 282649</p> | <p>4 Assistant Director
Policy & Legislation – Indirect Taxes
P.O. Box 35710
Lusaka
Tel: Zamtel Network: (0211) 382520
MTN Network: 0960 092520

Airtel Network: 0971 282520</p> |
| <p>5 Assistant Director – Indirect Taxes
ISMTO – Returns & Payments, Taxpayer
Services
P.O. Box 35710
Lusaka
Tel: Zamtel Network: (0211) 383201
MTN Network: 0960 093201
Airtel Network: 0971 283201</p> | <p>6 Assistant Director
Policy & Legislation – Direct Taxes
P.O. Box 35710
Lusaka
Tel: Zamtel Network: (0211) 383038
MTN Network: 0960 093038
Airtel Network: 0971 283038</p> |
| <p>7 Assistant Director Returns & Payment
/Taxpayer Services – DMIR, Direct Taxes
P.O. Box 35710
Lusaka
Tel: Zamtel Network: (0211) 382513
MTN Network: 0960 092513
Airtel Network: 0971 282513</p> | <p>8 Taxpayer Services – Direct Taxes
ISMTO
P.O. Box 35710
Lusaka
Tel: Zamtel Network: (0211) 383219
MTN Network: 0960 093219
Airtel Network: 0971 283219</p> |

- 9** Assistant Director
Indirect Taxes Kitwe
P.O. Box 20855
Kitwe
Tel: Zamtel Network: (0211) 384512
MTN Network: 0960 094512
Airtel Network: 0971 284512
- 10** Assistant Director
Direct Taxes Kitwe
P.O. Box 20855
Kitwe
Tel: Zamtel Network: (0211) 384404
MTN Network: 0960 094404
Airtel Network: 0971 284404
Airtel Network: 0971 284200
- 11** Assistant Director
Excise (North)
P.O. Box 70181
Ndola
Tel: Zamtel Network: (0211) 384200
MTN Network: 0960 094200
Airtel Network: 0971 284200
- 12** Taxpayer Services
Direct Taxes
P.O. Box 70181
Ndola
Tel: Zamtel Network: (0211) 384148
MTN Network: 0960 094148
Airtel Network: 0971 284148
- 13** Provincial Manager – Direct Taxes
Informal Sector and Medium Taxpayer
Office – Southern
P.O. Box 60597
Livingstone
Tel: Zamtel Network: (0211) 383804
MTN Network: 0960 093804
Airtel Network: 0971 283804
- 14** Provincial Manager – Indirect Taxes
Eastern Province
P.O. Box 510632
Chipata
Tel: Zamtel Network: (0211) 381904
MTN Network: 0960 091904
Airtel Network: 0971 281904
- 14** Provincial Manager
Informal Sector and Medium Taxpayer
Office – Central
P.O. Box 80909
Kabwe
Tel: Zamtel Network: (0211) 381005
MTN Network: 0960 091005
Airtel Network: 0971 281005
- 15** Provincial Manager – Direct Taxes
Informal Sector and Medium Taxpayer
Office – North-Western
P.O. Box 110368
Solwezi
Tel: Zamtel Network: (0211) 384900
MTN Network: 0960 094900
Airtel Network: 0971 284900
- 16** Provincial Manager
Informal Sector and Medium Taxpayer
Office – Northern and Muchinga
P.O. Box 410728
Kasama
Tel: Zamtel Network: (0211) 381812
MTN Network: 0960 091812
Airtel Network: 0971 281812
- 17** Provincial Manager
Informal Sector and Medium Taxpayer
Office – Luapula
P.O. Box 710112
Mansa
Tel: Zamtel Network: (0211) 381700
MTN Network: 0960 091700
Airtel Network: 0971 281700

18 Station Manager
Informal Sector and Medium Taxpayer
Office – Chinsali
P.O. Box 480002
Chinsali
Tel: Zamtel Network: (0211) 381540
MTN Network: 0960 091540
Airtel Network: 0971 281540

19 Provincial Manager
Informal Sector and Medium Taxpayer
Office – Western
P.O. Box 910110
Mongu
Tel: Zamtel Network: (0211) 381601
MTN Network: 0960 091601
Airtel Network: 0971 281601

20 Station Manager
Informal Sector and Medium Taxpayer
Office – Choma
P.O. Box 480002
Choma
Tel: Zamtel Network: (0211) 381300
MTN Network: 0960 091300
Airtel Network: 0971 281300

21 Station Manager
Informal Sector and Medium Taxpayer
Office – Chinsali
P.O. Box 480002
Chinsali
Tel: Zamtel Network: (0211) 381540
MTN Network: 0960 091540
Airtel Network: 0971 281540

OUR VALUES

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

Taxpayer Focus

Integrity

Professionalism

Innovation

Networking