

Returns

When submitting the provisional return for transactions that are in foreign currency, the exchange rate to be used 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.

Objections

Under Section 10 of the Property Transfer Tax Act, any determination or assessment for PTT may be objected to or appealed against by any affected person.

Objections against PTT assessments must be made in writing stating the grounds for objection and it should be within 30 days from the date the Notice of assessment was served. If the grounds of objection are not satisfactory, the assessment will be upheld. However, a taxpayer has a right to appeal to the Tax Appeals Tribunal should they be dissatisfied with the Commissioner General's determination.

Refund of tax paid

There will be instances when a transaction is aborted for various reasons after the tax has been paid and a tax clearance has been issued. Such cases will be refunded upon application. The following documents will be required:

- Original tax receipt
- Original tax clearance certificate
- Original PTT certificate
- Any proof that the transaction did not take place, (e.g. confirmation from the Registrar of Lands and Deeds)
- Formal letter of sale from the vendor, or their legal representative.

For transfer of land, the following documents will be required:

- Copies of NRC for both the buyer and seller (in the case of individuals)
- A certificate of incorporation (in the case of limited companies) or a certificate of Registration (in the case of partnership);
- State consent to assign
- Seller's and buyer's TPINs
- Contract of sale/deed of transfer/gift
- Legal practitioner's certification (where the legal practitioner is representing both parties; letters of administration or probate for deceased cases); and
- Valuation report for all transactions above K500, 000.00

For transfer of shares, the following documents will be required:

- PACRA Share transfer form 18
- PACRA Company Form 3

- Latest financial statements of the company in which the shares are held
- Shareholders resolution
- Share transfer agreement
- Identity or registration copies of both buyer and seller
- TPIN and PTT account for the seller and buyer
- Certificate of share capital
- Certificate of incorporation
- Return form (Online provisional PTT return)

For transfer of Mining Right, the following documents will be required:

- offer letter from ministry of mines
- copy of licence/mining right
- sale contract/agreement
- Certificate of Incorporation for seller

For transfer of intellectual property, the following documents will be required:

- Letter of sale or Contract of Sale/Agreement
- Certificate of registration of the IP(proof of ownership by transfer-or)
- Seller's and buyer's TPINs
- Any other relevant document

For indirect transfer of shares, the following documents will be required;

1. From the Zambian entity:

- PACRA Share transfer form 18
- PACRA Company Form 3
- Latest financial statements of the company in which the shares are held
- Identity or registration copies of both buyer and seller
- TPIN and PTT account for the seller and buyer
- Certificate of share capital
- Certificate of incorporation
- Return form (Online provisional PTT return)

2. From the foreign entity:

- Latest financial statements of the foreign entity
- Shareholders resolution
- Share transfer agreement
- Identity or registration copies
- Certificate of share capital
- Certificate of incorporation
- Group organisational structure

Return filing obligation for indirect transfer of shares

The obligation to file the PTT return in the case of indirect transfer of shares is on the Zambian Company



PROPERTY TRANSFER TAX

Introduction

The Property Transfer Tax Act Cap 340 provides for the charge of Property Transfer Tax on the transfer of property.

Property is defined as –

(a) Any land in the Republic, including improvements on it
(b) A share issued by a company incorporated in the Republic or a share issued by a company incorporated outside the Republic where the company directly or indirectly owns at least ten percent of the shares in a company incorporated in the Republic.

(c) Mining rights or interest granted under the Mines and Minerals Development Act and include:–

- (i) prospecting licence;
- (ii) a large scale mining licence;
- (iii) a large scale gemstone licence;
- (iv) a prospecting permit;
- (v) a small scale mining licence;
- (vi) a small scale gemstone licence; and
- (vii) an artisan's mining right.

(d) Intellectual property

Realized Value

The value of the property liable to PTT is:–

- a) In the case of land, the open market value;
- b) In the case of a share:
- i) issued by a company incorporated in the Republic, the open market value or nominal price whichever is greater,
 - ii) 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 percent of a company incorporated in Zambia, the realised value shall be 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.

(c) In the case of a mining right or an interest in a mining right, the actual price of that mining right or interest or as deter-

mined by the Commissioner General whichever is higher;
(d) In the case of intellectual property, the actual price of the intellectual property or as determined by the Commissioner
cc)General whichever is higher.

Transfer

The term “transfer” –

- (a) In relation to land, excludes –
 - Letting or sub – letting;
 - Leasing, under-leasing, or sub-leasing, for a period less than five years;
- (b) In relation to a share, excludes –
 - the allocation of the same by the company to the member in whose name it is first registered but includes transfers of property within a group of companies whose holding company is incorporated in Zambia.

Rate of Tax

The rate of tax applicable on the transfer of Land, Intellectual property, or Shares is 5% and 10% for a Mining right.

Note: The PTT on land, shares and mining rights is paid by the seller.

Transfer to Immediate family

Where a person transfers property to a member of the immediate family, the realized value of such property is the actual price, if any received by the transferor.

The term “Immediate Family” with respect to the person transferring the property, refer to “a spouse, a child, a duly adopted child or step – child”.

Transfer of property within a group of companies.

Where, within a group of companies, a company transfers property to another company (other than a company which is not resident in Zambia) within the group for the purposes of internal re-organization of the group, the Commissioner General may treat such transfer as having no Realised Value.

Transfer of property between group companies that have been members of a group for less than three years will not be considered by the Commissioner General for any relief for PTT purposes.

The term **group of companies** means a holding company together with its subsidiary companies but excludes a situation where there is common shareholding. Holding company means –

- a) A company that holds the majority of the voting rights in another company;
- b) Is a member of another company and controls the majority of the voting rights on its own or pursuant to an agree-

ment entered into with the other members; or
c) Is a member of another company and controls and has the right to appoint or remove a majority of the board of directors in that other company.

Proposal to include definition for effective shareholding since it is introduced in the calculation of realized value “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

Exemptions

1. The following organisations are exempt from Property Transfer Tax:

- a) The Government of the Republic of Zambia;
- b) Any foreign government;
- c) Any international organization, foundation or agency as the Minister of Finance may approve for the purpose;
- d) any public benefit organisation listed as such under the Income Tax Act;
- e) Any co-operative society registered under the Co-operative Societies Act is exempt from tax in that particular charge year when it is exempt under the requirements of the Income Tax Act;
- f) A local authority;
- g) Registered trade unions;
- h) Any club, society or association registered under section 41 of the Income Tax Act Cap 323 of the Laws of Zambia as a Public Benefit Organization or as the Minister may approve for the purpose;
- i) Approved Pension Funds and Medical Aid Society;
- j) Employees' Savings Scheme or Fund;
- k) Any political party registered as a statutory society under the Societies Act.

Other Exemptions

2. Shares or stocks, that are listed on a stock exchange and are duly registered under the Securities Act, e.g. the Lusaka Securities Exchange, are exempt from Property Transfer Tax.

Listed shares are those that are readily transferable or disposable on that Securities Exchange.

3. Contributions towards the equity of company:
The Commissioner General may treat the transfer of property by a shareholder of a company incorporated under the Companies Act, as having no realizable value, if such transfer is his contribution towards the equity of that company.

However, for exemption applications involving the transfer of shares or other properties in a re-organisation, proof of ownership of the number of shares held must be made by attaching the relevant share certificate.