

- deceased)
- (d) Proof of existence of group of companies(resident) holding/ subsidiary (where transfer is made for purpose of group reorganization)
  - (e) Birth Certificate/child adoption certificate (if transferee is a child, duly adopted child or step child)
  - (f) Marriage Certificate (if transferee is a step child or spouse)
  - (g) An extract of an advert for sale of the property (if property being transferred is repossessed i.e. by bank, insurance company)
  - (h) Court Judgement (if property being transferred is repossessed i.e. by bank, insurance company)
  - (i) Documentation showing the list of bidders and bid prices (if the property was sold through bidding)

**Transfer of shares**, the following documents will be required:

**Mandatory**

- (a) Latest financial statements of the company in which the shares are held (in exceptional cases where Financial statements are not available an asset declaration form or bank statement may be accepted)
- (a) Company Form 18- Notice of transfer of shares
- (b) Contract of sale/ Letter of sale
- (c) Minutes of Board resolution
- (d) Certificate of share capital
- (e) Certificate of incorporation
- (f) Latest PACRA Computer printout

**Additional Attachments in certain circumstances**

- (h) Due Diligence report (Where the buyer has done an investigation or audit to confirm facts or details before entering in a share transfer investigation)
- (i) Deed of Gift (where a transfer is a gift)
- (j) Proof of existence of group of companies(resident) holding/ subsidiary (where transfer is made for purpose of group reorganisation)
- (k) Marriage Certificate (if transferee is a step child or spouse)
- (l) Birth Certificate/child adoption certificate (if transferee is a child, duly adopted child or step child)

**Transfer of Mining Rights and Interest in Mining Rights and Mineral Processing licence** the following documents will be required:

**Mandatory**

- (a) Letter of offer from ministry of mines
- (b) Copy of the License
- (c) Contract of sale /Letter of sale

**Additional Attachments in certain circumstances**

- (d) Deed of Gift (where a transfer is a gift)
- (e) Proof of existence of group of companies(resident) holding/ subsidiary (where transfer is made for purpose of group reorganisation)
- (f) Marriage Certificate (if transferee is a step child or spouse)

- (g) Birth Certificate/child adoption certificate (if transferee is a child, duly adopted child or step child)
- (h) Any other Geological information e.g. Geochemical data to help ascertain factors like depth of ore, geological certainty, grade of the resource, location of the licence area etc.

**Transfer of intellectual property**, the following documents will be required:

- (a) Letter of sale or Contract of Sale/Agreement
- (b) Certificate of title the Intellectual Property (PACRA Form)
- (c) Seller's and buyer's TPINs
- (d) Proof of existence of group of companies(resident) holding/ subsidiary (where transfer is made for purpose of group reorganisation)
- (e) Any other relevant document

Indirect transfer of shares, the following documents will be required;

**1.From the Zambian entity:**

- a) PACRA computer printout

**2.From the foreign entity:**

- a) Latest financial statements
- b) Shareholders resolution
- c) Share transfer agreement
- d) Certificate of incorporation
- e) 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.

**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:

- (a) A request in writing
- (b) Any proof that the transaction failed to materialize, (e.g. confirmation from the at Ministry of Lands or Local Government or letter of cancellation of transfer from land Authority or PACRA or Ministry of Mines and Minerals Development).



## 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 license;
  - (iii) a large scale gemstone license;
  - (iv) a prospecting permit;
  - (v) a small scale mining license;
  - (vi) a small scale gemstone license;
  - (vii) an artisan’s mining right; and
  - (viii) a mineral processing license.
- (d) Intellectual property which includes patents, trademarks, copyrights, or industrial design.

## Realized Value

Tax is computed on the realized value of the property. The value of the property liable to PTT is:–

1. In the case of land, the open market value;
2. 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 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.

“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.

3. 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 determined by the Commissioner General whichever is higher;
4. In the case of intellectual property, the actual price of the intellectual property or as determined by the Commissioner 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.
  - Forfeiture or surrender of shares by the shareholder.

## Rate of Tax

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

**Note: The PTT on land, shares, mining rights, mining processing license and Intellectual property is paid by the seller.**

## Exemptions

### 1. 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”.

### 2. 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 agreement 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. 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.

### 3. Exempt Organisations

The following organisations are exempt from Property Transfer Tax:

- 1) the Government of the Republic of Zambia;
- 2) any foreign governments;

- 3) such international organisation, foundation or agency as the Minister may approve for the purpose;
- 4) an exempt public benefit organisation in accordance with the Income Tax Act;
- 5) any co-operative society registered under the Co-operative Societies Act;
- 6) the organisations listed in paragraphs 5 (1) and (2) of the Second Schedule to the Income Tax Act;
- 7) any transfer of property by a shareholder of a company incorporated under the Companies Act, if such transfer is his contribution towards the equity of that company.
- 8) 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.**

All transactions that are exempt from PTT shall be subjected to the PTT process and the Tax clearance certificate issued accordingly. Exempt persons or organisations will indicate if the transaction is exempt at the time of filing in the PTT return and a nil consideration is issued.

## PTT Returns submission

The Transferor shall submit the PTT provisional Return online through the ZRA web portal. The Provisional Return shall be in Kwacha. Once the Taxpayer has submitted the return and he has made the full payment against the approved assessment, the Property Transfer Tax clearance certificate shall be generated by the system and sent to the Taxpayer registered email.

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.

## Supporting Documents

The following attachments/information shall be attached for processing of PTT for the different types of properties:

**Transfer of land**, the following documents will be required:  
**Mandatory**

- (a) State consent to assign
- (b) Contract of sale /Letter of sale

## Additional Attachments in certain circumstances

- (a) Valuation report for all transactions above K700,000.00
- (b) Deed of Gift (where a transfer is a gift)
- (c) Letter of appointment of Administrator (where transferor is