Change: Joining the dots

National Budget 2013/2014

Finance Act 2013 Update

Reinstatement of VAT exemption on tourist services and non-resident withholding tax exemption on aircraft lease rentals

5% withholding tax on payment for services unchanged from Finance Bill

New TZs 1,000 monthly excise duty on sim cards

New 0.15% excise duty on "money transfer"

Reversal of proposed excise duty increase on diesel and petrol

Introduction

This newsletter is an update on our two newsletters issued in June on the Budget speech and subsequently the Finance Bill 2013. It summarises additional points arising from our review of the recently assented Finance Act 2013.

Action should not be taken on the strength of this newsletter, which has been prepared to give a quick reference and is not a substitute for professional advice.

Overview / Commentary

Positive changes include the reinstatement of the withholding tax exemption for aircraft lease rentals paid to non-residents and the VAT exemption for tourism services.

However, there is an overall concern that fundamental changes for the business community have been introduced with little or no consultation including:

- Excise duty changes in relation to electronic communication services and (following the issue of the Finance Act) sim cards as well as money transfer services, which have a number of uncertainties as to their practical application.
- A 5% resident withholding tax on services (unchanged in the Finance Act from the Finance Bill) which raises a number of significant practical concerns as highlighted in our Finance Bill newsletter.

These changes are a backward step for the business environment in Tanzania as they will add to the cost of doing business.

Income Tax

Transfer pricing adjustments – limitation period

The extended six year limitation period set out in the Finance Bill in relation to transfer pricing adjustments has now been reversed.

Alternative minimum tax ("AMT")

The Finance Bill had proposed (by way of two amendments to the ITA 2004) to extend the required period to trigger AMT from 3 years to 5 years. The Finance Act removes one proposed amendment (to section 4(1)) but not the other (to paragraph 3 of the First Schedule) – with the consequence that it is not clear whether the AMT period has been changed or not.

Withholding Tax

5% Withholding tax on services-resident

The Finance Act does not include any changes to the wording set out in the Finance Bill as regards the new 5% resident withholding tax on the payment of services. The concerns

pwc

with regard to this tax (as set out in our Finance Bill newsletter) remain.

Withholding tax – aircraft lease rentals

There is a reinstatement of the exemption for withholding tax on aircraft lease rentals paid to non-residents. However, where an aircraft lease rental is paid to a resident withholding tax will apply at the rate of 10%.

Excise Duty

Aircraft

The Finance Act now excludes "commercial aircraft" from the application of the newly introduced excise duty on aircraft. There is however no definition included of the term "commercial aircraft".

Electronic communication service

The Finance Bill introduced a definition of "telecommunication services". The Finance Act now replaces this term with "electronic communication service" and the services included in the definition have been expanded. For the updated definition of "electronic communication services", see the definition included in the Appendix to this newsletter.

Money transfer

The Finance Act has introduced a new excise duty of 0.15% for "money transfer" through a bank, financial institution or telecommunication company. The duty will not apply to any transfer

- Not exceeding TZS 30,000, or
- Between banks and financial institutions, government, diplomats and diplomatic missions.

Clarification is still awaited on a number of practical issues related to the implementation of this tax.

Sim card

Another item not included in the Budget speech or the Finance Bill, is a TZS 1,000 monthly excise duty on telecommunication sim cards. Again, clarification is awaited on a number of practical issues related to the implementation of this tax.

Fuel

The Budget speech had proposed an
The Budget speech had proposed an
increase in excise duty on petrol and diesel. These changes were reflected in the Finance Bill but are not reflected in the Finance Act and so have been reversed. On the other hand the Finance Act now includes an increase in excise duty on kerosene (from TZS 400.30 per litre to TZS 425 per litre).

Taxes on fuel

Aside from the excise duty changes mentioned above, the increase in fuel levy (road toll) remains as proposed. However, clarification is still required in relation to the new petroleum levy (TZS 50 per litre) as the Finance Act does not include any explicit reference to this.

Value added tax

Exemption on tourist services

The budget speech and Finance Bill had both proposed a removal of the exemption on tourist services. However this amendment has been left out of the Finance Act. Accordingly, the exemption on tourist services will continue to apply on (i) tourist guiding, (ii) game driving, (iii) water safaris, (iv) animal or bird watching, (v) park fees, (vi) tourist charter services, (vii) ground transport.

Annual Road Licence fees for Motor Vehicles

The Budget speech proposal to increase the annual road licence fees by TZs 50,000 was not referred in the Finance Bill and also has not been included in the Finance Act. It therefore appears that the old rates will continue to apply.

Consolidated summary of changes

In a separate document, which we are circulating with this newsletter, we have consolidated a brief summary of all the tax changes highlighted in this newsletter and the earlier newsletters on the Finance Bill and the Budget Speech.

Immediate actions of general application

Tax changes of general application that taxpayers should ensure that their systems take account of include the following:

- Adjustment to payroll systems to take account of (i) the reduction in the rate of skills and development levy (ii) the change of tax rate on the lowest band of taxable income

- Application of the new 5% resident withholding tax on services. In this regard, account needs to be taken not just of the need to withhold, but also the administrative requirement in terms of withholding tax certificates that the withholder needs to issue to the withholdee.

………………………………………….

Appendix - Telecommunications

Excise (Management and Tariff) Act – amendment – Section 2

Section 10 of the Finance Act defines *"electronic communication service"* as follows*:*

"'electronic communication service' means a service of any description provided by a person or a company by means of any transmission, emission or reception of signs, signals, writing, images and sounds or intelligible information of any nature, by wire, optical, visual or other electromagnetic means or systems, including-

(a) voice, voice mail, data services, audio text services, video text services, radio paging and other emerging electronic communication services;

(b) fixed telephone services including provision of access to and use of the public switched or non-switched telephone network for the transmission and switching of voice, data and video, inbound and outbound telephone service to and from national and international destinations;

(c) cellular mobile telephone services including provision of access to and use of switched or non-switched networks for the transmission of voice, data and video and Value Added Service inbound and outbound roaming service to and from national and international destinations;

(d) carrier services including provision of wired, optical fibres or wireless facilities and any other technology to originate, terminate or transit calls, charging for interconnection, settlement or termination of domestic or international calls, charging for jointly used facilities including pole attachments, charging for the exclusive use of circuits, a leased circuit or a dedicated link including a speech circuit, data circuit or a telegraph circuit;

(e) provision of call management services for a fee including call waiting, call forwarding, caller identification, three-way calling, call display, call return, call screen, call blocking, automatic call-back, call answer, voice mail, voice menus and video conferencing;

(f) private network services including provision of wired, optical fibre, wireless or any other technologies of telecommunication link between specified points for the exclusive use of the client;

(g) data transmission services including provision of access to wired or wireless facilities and services specifically designed for efficient transmission of data; and

(h) communication through facsimile, pager, telegraph and telex and other electronic telecommunication services."