



PwC insight and analysis

Summary of points additional to those highlighted in our Budget Newsletter

We hope that you will find this update helpful and look forward to your comments

Finance Bill 2016 Update



Finance Bill 2016 Update

Business income

- **Definition of “business”:** Extension to cover “a transaction resulting into granting of gifts, benefits in cash, kind or any other way as a source of income received by any person”. Comment: the object of this amendment is completely unclear; in addition its width is worrying, in particular as drafted the payment of any kind to another person (for example, from a parent to a child, or from one spouse to another) would seem to be business income and therefore taxable!
- **Interest expense:** Amendment of thin capitalization definition of “debt” to mean “any debt obligation”. This now means that non-interest bearing loans and even accounts receivable will be included as “debt” for these purposes. Comment: The thin capitalization provision was originally introduced in 2010 to replace the interest cover restriction, and a definition of “debt” was introduced in 2012. This amendment which reverses the change made in 2012 is of significant concern. Further comments will be provided in a separate International Tax Update newsletter.
- **Change of control:** reference period changed back to 3 years from 2 years (reversing Finance Act 2015 amendment). Comment: This change begs the question as to the reason for the amendment 12 months ago.

- **Professional Services:** to be taxed at 5% of turnover as a final tax. Comment:
 - Whilst this amendment will benefit “briefcase professionals” with little by way of staff costs and overheads, it will burden mainstream professionals for whom it will represent an effective tax increase in less profitable years (as the 5% tax on turnover in such years will exceed 30% tax on profit).
 - For construction businesses, it will mean some income (service related component – see commentary below on withholding tax) will be taxed by way of final tax on turnover, and the remainder by way of corporate income tax on profits. This will result in significant practical challenges.
- **Filing deadline:** Intention appears to change deadline for filing final tax return to 3 months from 6 months (but drafting has transposition error). Comment: At the moment the filing deadline is 6 months, and many businesses still struggle with this deadline. A deadline of 3 months is likely to prove very challenging. An added consideration is that the Tax Administration Act provides for a maximum 30 day extension of time for filing a final tax return.
- **Mining / Oil and Gas:** The Finance Bill introduces significant changes to the income tax regime for Mining and Oil and Gas including: an increased tax rate for oil and gas; new rules governing transactions in mineral / petroleum rights; new restrictions on offset of brought forward tax losses; and other changes to expenditure relief. Comment: Given the significance of the changes, we cover these changes in a separate newsletter.

- *Amendment of thin capitalization definition of “debt” to include non-interest bearing debt*
- *Filing deadline for final tax returns to reduce to 3 months?*
- *Change to source rules on services supplied by non-residents*

Withholding tax

- **Services provided by non-resident:** Amendment that seeks to make place of performance irrelevant to determination of source of payment. Comment: Further comments will be provided in a separate International Tax Update newsletter.
- **Services provided by a resident:** Amendment to limit resident withholding tax on services to “professional services” as defined, and deeming service element of payments related to construction works to be 40% of the invoiced amount.

Finance Bill 2016 Update

Tax Administration Act

- **100% payment on objection:** Minimum payment requirement increased from one third to 100%. Comment: At a practical level, this may remove taxpayers right of appeal to the tax appellate bodies. In case of any decision against TRA at the Tax Revenue Appeals Board, or Tax Revenue Appeals Tribunal, the incentive will be for TRA to appeal any adverse ruling so as to delay any refund. In addition, even if a favourable ruling to the taxpayer were ultimately made at the level of Court of Appeal, the taxpayer would have the uncertainty as to when any refund might be paid. Against this background, taxpayers will weigh the legal costs of pursuing tax appeal, and perhaps decide that there is no benefit in “throwing good money after bad”.
- **Interest:** Replacement of interest charge at Bank of Tanzania rate, with immediate penalty of 5% and monthly penalty of 5%. Comment: Under the old ITA 1973 a 5% penalty did apply, but every five months not every month. The ITA 2004 replaced this with an interest penalty at the “statutory rate” (being the Bank of Tanzania discount rate), and this was then increased to the statutory rate + 5% with effect from 2010. The Tax Administration Act 2015 changed the rate back to the “statutory rate”. The proposal for a monthly 5% interest penalty is difficult to support. By way of illustration for an amount that is 12 months late, this together with the immediate penalty will equates to a compound amount of 79.59% for the 12 months! If an amendment were to be made, it would be best to change from the “statutory rate” to “statutory rate plus 5%” similar to the ITA 2004 amendment made in 2010.

Tax Administration Act

- **Remission:** of interest or penalty can be as follows:
 - **Interest:** by the Minister in consultation with the Commissioner General but subject to a percentage limitation (not stated in the Bill)
 - **Penalty:** by the Commissioner General, and in whole or in part, where satisfied that there is “good cause”
- **Rental income:** Clarification in relation to process for determining minimal rental values including use of independent valuers
- **Disclosure obligation on construction and extractive industry:** to “disclose to the Commissioner General the names of all persons sub-contracted in the course of performance of their duties or business or carrying out of any project”. Disclosure to cover “names of the persons and nature of sub contracted works together with the duration of carrying out the works”. Failure to comply will result in a fine of the greater of “25% of the quantum payable under the project” or a minimum of 3,400 currency points (currently equivalent to TZS 51m)

- *Minimum payment on objection increased to 100% of tax assessed*
- *Interest on late payment to apply at 5% per month*

Finance Bill 2016 Update

Value Added Tax Act

- **VAT returns – due date:** Due date for filing VAT returns changed to the 20th day of the month following the end of tax period.
- **VAT deferral:** Security no longer a requirement for application of deferral of VAT on imported capital goods.
- **New exemptions:**
 - Agricultural, horticultural or forestry machinery except lawn mower or sports ground rollers and parts.
 - Harvesting or threshing machinery except machine under HS Code 8433.11.00, 8433.19.00 and 8433.90.00.
 - Examination answer sheets.
 - All printed books, brochures, leaflets and similar printed matter under HS Code 4901.
 - All liquefied petroleum gases (LPG) under HS Code 2711

Excise Duty

- Recorded video and audio tape, DVD, VCD and CD: increase to TZS 50 per unit
- Imported seats (other than those of heading 94.02), whether or not convertible into beds, and parts thereof: increase to 20%.

Electronic Communications / Telecommunications / Postal Service

New requirements:

- **Minimum local shareholding**
- **Mandatory listing**

Urban Authorities (Rating) Act

- Rates collected under Urban Authorities (Rating) Act to be deposited in a special account to be opened by the Minister for Finance at the Bank of Tanzania. The distribution of the proceeds kept in the account shall be made to Local Government Authorities in accordance with prescribed regulations issued by the Minister for Finance after consultation with the Minister responsible for Local Government
- Powers to exempt from property tax now moved to the Minister for Finance from the relevant Local Authority Council.

- *VAT return due date changed to 20th day of following month*
- *Local Government rates to be paid to Bank of Tanzania account before distribution to Local Government Authorities*

Contact us in Dar es Salaam

David Tarimo

Partner/Director - Tax

Tel: +255 22 219 2600

Email: david.tarimo@tz.pwc.com**Rishit Shah**

Partner/Director - Tax

Tel: +255 22 219 2601

Email: rishit.shah@tz.pwc.com**Joseph Lyimo**

Associate Director – Indirect Tax

Tel: +255 22 219 2613

Email: joseph.lyimo@tz.pwc.com**Mirumbe Mseti**

Associate Director – Direct Tax

Tel: +255 22 219 2616

Email: mirumbe.mseti@tz.pwc.com**Ali asger Dawoodbhai**

Senior Manager – Direct Tax

Tel: +255 22 219 2620

Email: ali.dawoodbhai@tz.pwc.com**Michael Quinton**

Senior Manager – Direct Tax

Tel: +255 22 219 2612

Email: michael.quinton@tz.pwc.com**Aloys Byemerwa**

Senior Manager – Tax Reporting Services

Tel: +255 22 219 2615

Email: alloys.byemerwa@tz.pwc.com

Contact us in Arusha

Pamella Salehe

Manager - Tax

Tel: +255 27 254 8881

Email: pamella.salehe@tz.pwc.comwww.pwc.com/tz@pwc_tz

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers Limited, its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

© 2016 PricewaterhouseCoopers Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Limited which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity.