

Budget Update Finance Bill 2024

June 2024

Highlights

- This is an update on our Budget Speech bulletin of 14 June 2024. It summarises additional proposed changes arising from our review of the Finance Bill 2024 ("the Bill") dated 18 June 2024. The next step in the legislative process will be the passing of the Finance Act 2024, which will come into force on 1 July 2024.

In brief

Tax Appeals and Administration

- Appeals - 90 day timeline for out of court settlement
- Six month determination rule - deemed admission of objection on fulfilment of deposit requirement
- Document service - to include email and fax

Income Tax

- Public Sector Income Tax Return
 - Two signatories to be entity officers - no need for CPA in public practice signature
 - Filing deadline of nine months (instead of six months)
- Income Tax - Transactions
 - Change in control - clarificatory amendment to confirm exclusion on issuance of shares limited to issuance of shares by a resident entity
 - Capital gains tax - explicit restriction of 3% rate on gross disposal proceeds to individuals
- Income Tax - Withholding Tax
 - Rent - extension to construction equipment or machinery
 - Agricultural produce - scope limited to supplies by resident intermediaries
 - Services - extended to individuals providing tour guiding services, and is a final tax

Value added tax

- VAT scope to cover online data services provided by a non-resident supplier to an unregistered customer
- New definitions for the terms "gaming supply" (exempt supply) and "serviced apartment" (taxable supply)
- Exemption on various supplies in relation to aircraft where supplied to local manufacturers or assemblers of aircraft (in addition to local aircraft operators)

Excise duty

- Excise duty incurred on undenatured ethyl alcohol, where used as a raw material, creditable against excise duty on finished products (certain specified alcoholic products)





Tax Revenue Appeals Act

Out of Court Settlement - 90 day timeline (plus possible 10 day extension)

The Finance Act 2021 enabled parties involved in an appeal before the Tax Revenue Appeals Board (TRAB) or Tax Revenue Appeals Tribunal (TRAT) to resolve their dispute through mediation, which is an out-of-court settlement. However, it did not specify a timeline for completing these mediations. The Bill proposes a 90-day timeline, with the possibility of extending this period by up to 10 days upon approval by TRAB or TRAT.

Tax Administration Act (“TAA”)

Definition of “tax audit” introduced which includes a desk audit and issue oriented audit

The term tax audit has now been defined to mean “*examination of taxpayer’s tax affairs to check compliance with tax laws, and includes desk audit, issue oriented audit or comprehensive audit*”.

This clarification confirms that desk audits, issue-oriented audits, or similar examinations, are considered as tax audits and so should adhere to the same standards as a comprehensive audit including the provisions outlined in Part III of the Tax Administration (General) Regulations, which detail guidelines and requirements for tax audits and investigations.

Deemed admission of objection upon fulfilment of deposit requirement

Section 52 deems an objection to a tax decision to be determined if there is no final determination within six months from the date of admission of the objection. However, the term “date of admission” was not defined, and in cases of no formal admission letter there was ambiguity on when the six months period commences.

The process for objection to a tax decision requires:

- Filing of an objection within 30 days (unless an extension granted)
- Satisfaction of the minimum tax payment requirement within 30 days (unless a waiver being the higher of (i) tax not in dispute and (ii) one third of the tax assessed)

The Bill now introduces a deemed admission by reference to the date of satisfaction of the latter condition. On one interpretation, this could mean that the countdown begins before the objection is formally lodged, as meeting the deposit requirement precedes the admission of the objection. However, there is no objection until one is lodged, and on this basis arguably time can only start to run from this point. This aspect may require further formal confirmation.





Electronic document system - filing via email or fax

Currently the TAA has a provision to recognise electronic communication (in terms of (i) filing of documents, (ii) furnishing of documents, and (iii) servicing documents) if effected through an electronic document management system managed by the TRA (Section 38 - Electronic Document System).

The Bill now extends this by stating that *“a document is considered to be served on the Commissioner General or a person when that document is duly sent by email, fax or any other electronic means in accordance with written laws governing electronic transactions.”*

This in effect formally confirms that taxpayers can file documents with the TRA via email, fax, or other electronic methods as stipulated in the written laws governing electronic transactions¹, something that the TRA has already been accepting in practice.

The legislation does not confine the scope of service to documents served on the TRA as it refers to “the Commissioner General or a person”, which would seem to imply that such electronic communication can also be used by the TRA to serve a document on a taxpayer.

Person qualified to sign income tax return for a parastatal or an entity owned wholly or substantially by the Government

An income tax return for a parastatal or an entity wholly or substantially owned by the Government must be signed by a manager and head of finance or certified public accountant appointed or employed in the public service by the parastatal or such entity for that purpose, who shall both declare that the tax return is complete and accurate.

Essentially, this means that for income tax returns of such entities there is no longer a requirement for certification by a certified public accountant who is in public practice (although one can still be appointed at the entity's discretion).

Income Tax – Administrative

Filing deadline for public sector entities - nine months

The Bill has extended the deadline for filing corporate income tax returns for entities audited by the Controller and Auditor General (CAG) from six months after the end of the year of income to nine months.

Removal of return filing obligation on non-resident employees

Currently, there is no requirement for a resident individual to file a tax return if their sole income is employment income which has already been subject to income tax withholding by their employer. The Bill extends this same filing exemption to non-resident individuals.

Income Tax - Transactions

Change in control rules - exclusion limited to issuance of shares by a resident entity

Consistent with the Budget speech, the Bill expressly limits the exclusion introduced in the Finance Act 2023 (non-application of section 56 where changes in underlying ownership result from issuance of shares by an entity) to only resident entities. This was in any case the understood interpretation - refer to our [Finance Bill 2023 commentary](#)² however, it does remove any uncertainty on this point.

A concern still remains that multinational entities looking to raise capital through issuance of shares could still trigger a change in control event and related income tax liability. This is particularly pressing for many mining sector projects looking to raise capital through issuance of shares on international stock markets, since that will naturally be by a company listed overseas.

Investment income (capital gains tax) - 3% rate on gross disposal proceeds restricted to individuals

The Finance Act 2023 provided for an alternative basis for income tax on property disposals (“capital gains tax”) for resident property sellers who do not keep records of costs of the assets, such that tax would be assessed on sale proceeds rather than gain and at a rate of 3% (of the higher of (i) sales value or (ii) an approved value of the asset). Whilst, the 2023 Budget speech wording implied that the change would apply to individuals, the Finance Act 2023 simply referred to “a resident person” which would cover both individuals and entities. The Bill replaces the word “person” with “individual”, so that it is now clear this basis only applies to an individual.

¹ While the Finance Bill has not specified what qualifies as “other electronic means,” the same is defined under the Electronic Transaction Act. However, the definition is very broad (refers to any transfer of sign, signal or computer data; including those transmitted by a wire, radio). Therefore, it remains unclear what additional methods might be considered for the service of documents.

² <https://www.pwc.co.tz/assets/pdf/finance-bill-2023.pdf>



Income Tax - Withholding Tax

Rent of construction equipment or machinery

The scope of the 10% withholding tax on rent for payments to residents, which currently covers payments for the use of aircraft, land or buildings, is extended to cover payments for the use of construction equipment or machinery.

The term “construction equipment or machinery” is defined to mean, *“the equipment, machinery, structure, scaffolding, materials, tools, supplies or systems rented or leased by contractor or its subcontractors for use in accomplishing the construction works but not intended to form part of the structure to be built or for incorporation into the project”*.

Digital content creators

Following the Budget speech announcement of a new 5% withholding tax on payments (made by residents and non-residents) to resident digital content creators, the Bill includes the following definition of the term “digital content creator”: *“means a person who produces digital content in formats that can be shared using a digital medium or platform over the internet”*. In addition, “digital content” has been defined as *“electronic content that may be downloaded, streamed or accessed in any manner, which is not simultaneously broadcasted over any conventional radio or television network in the United Republic”*.

Digital asset

The Budget speech announced the introduction of a 3% withholding tax obligation on digital platform owners in relation to payments in respect of transfer of digital assets. Whilst the Budget Speech had stated that this withholding tax obligation would apply to both residents and non-residents, the Bill limits this obligation to non-residents.

The Bill defines “digital asset” as follows: *“(a) anything of value that is not tangible including crypto-currencies, token code, number held in digital form and generated through cryptographic means or any other means, by whatever name called, providing a digital representation of value exchanged with or without consideration that can be transferred, stored or exchanged electronically; or (b) a non-fungible token or any other token of similar nature”*;

This definition is similar to the definition provided when a similar amendment was introduced in Kenya from September 2023.

In addition, “payment” has been defined for the purpose of the provision to mean *“the gross fair market value considered received or receivable at the point of exchange or transfer of a digital asset.”*

Tour guiding services

The scope of the 5% resident withholding tax on professional services is extended to include payments made to individuals providing tour guiding services and related services like portage, chef services, or luggage carrying services, under final withholding payments.

Agricultural produce

The Bill clarifies that the 2% final withholding tax on payments for purchase of agricultural, livestock, forestry or fishery products only applies to supplies made by a resident intermediary person i.e. a distributor/ agent and not the actual producer.

A “resident intermediary person” is defined as *“a person who purchases or collects agricultural, livestock, forestry or fishery products from a person who is directly engaged in agricultural, livestock, forestry or fishery activity and supplies such products to a resident entity”*.

Gross payment - non-resident charterer

A non-resident person who receives a payment in conducting a business of land, sea or air transport operator or charterer is subject to pay income tax (single instalment charged under Section 90) equal to 5% of the gross payment. Previously, the term “gross payment” was not defined; the Bill now introduces a definition which makes clear that this term excludes *“any fees, charge or tax paid by a passenger and received by that person on behalf of the Government”*.





Mining Act

Requirement to set aside minerals for processing, smelting, refining and trading locally - minimal of 20%

Although the Minister shall issue regulations to determine the percentage of minerals to be set aside, the Bill has confirmed that this will not be less than 20%.

Supply of gold to the domestic refinery - royalty rate maintained as 4%

Whilst the Budget Speech (English version) referred to a reduction of royalty rate from 4% to 2%, the Bill does not reflect this proposal and so the royalty rate for gold supplied to domestic refineries remains at 4% (which aligns with the Swahili version of the Budget Speech).

Supply of gold to the Bank of Tanzania (BoT) - royalty rate reduced to 4%

Whilst, the Budget Speech (which had inconsistencies on this matter) proposed to reduce the royalty rate from 6% to 2%, the Bill confirms a reduced rate of 4% (instead of 2%).

As noted in our Budget speech newsletter, the sale of gold to BoT is exempt from the inspection fee (1%).

Royalty payment - 1/3 by way of deposit of refined minerals

The Bill provides for one-third of the royalty amount payable to be settled through deposit of refined minerals into the National Gold and Gemstone Reserve.

Bank of Tanzania (BoT) exception

The Bill has provided an exception for BoT from the requirement to obtain licences and the payment of balance of royalty in addition to the provisional royalty payment.



Value Added Tax

The Bill has included additional definitions covering the terms gaming supply; online data services; and serviced apartment.

Clarity on online data services and expansion of electronic services definitions

Online data services are defined to mean ***“any form of monetization of user data including the sale or licensing of, or access to user data or information collected through user engagement with an online platform, whether sold or licensed directly or indirectly, aggregated or disaggregated, anonymised or used in any other form”***. Further, the definition of the term “electronic services” is expanded to include online data services provided by non-resident service providers. The change intends to expand the tax base and keep pace with technology changes. This inclusion will require the online data service providers to register for VAT through online simple registration³ or register through a VAT representative once the said services are provided to unregistered persons.

Additional definitions covering the terms ‘gaming supply’ and ‘serviced apartment’

“Gaming supply” (which is an exempt supply) is defined to mean *“a supply of gaming activities as defined under the Gaming Act”*.

The scope of “commercial accommodation”, which is a taxable supply, includes a “serviced apartment”. The Bill introduces a definition of the term “serviced apartment” as follows: *“a furnished apartment or similar establishment, available for short or long-term stay, providing amenities for daily use, housekeeping and a range of other services all included within the rental price”*.

Exemption

The Bill clarifies that the exemption on supply of aircraft, aircraft engine, aircraft parts and aircraft maintenance applies to local manufacturers or assemblers of aircraft in addition to the already existing exemption on supplies made to local aircraft operators.

³as per guidance provided under the Value Added Tax (Registration of Non-Resident Electronic Service Suppliers) Regulations, 2022



Excise duty

Clarification on the introduction of excise duty to the undenatured ethyl alcohol where it is used as a raw material

The Bill introduces a change to enable licensed manufacturers to offset excise duty paid on imported or locally manufactured undenatured ethyl alcohol⁴ against excise duty payable on the finished alcoholic products like spirits, liqueurs and other spirituous beverages under heading 2208⁵.

Similarly, manufacturers of alcoholic products will enjoy remission of excise duty incurred on raw materials (undenatured ethyl alcohol under HS code 2207) used for production of industrial energy (where the person produces the undenatured ethyl alcohol) or medical or laboratory use. The remission shall be provided by the Commissioner upon receiving the approval from the Minister by order published in the *Gazette* and such order has to be submitted to the National Assembly for approval.

Excise duty on bottled water reduced to TZS 56 per litre

The bill clarifies that the reduction of excise duty on locally produced bottled water⁶ is from TZS 63.80 per litre to TZS 56 per litre consistent with the Swahili version of the Budget speech (whereas the English version had referred to TZS 58 per litre).



⁴Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher

⁵Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages

⁶HS Code 2201.10.00 and 2201.90.00

Other Regulatory Matters

Motor Vehicle (Tax on registration and transfer) Act

The Bill expands the scope of registration tax to cover electric motor vehicle as summarised in the table below:

Category	Capacity	Amount (TZS)
Micro hybrid	5 < Kw	95,000
Mild or semi-hybrid	6 - 30 Kw	250,000
Full hybrid	31 - 40 Kw	
Plug-in hybrid	41 - 90 Kw	

The Sugar Industry Act

The Bill proposes the following changes, among others:

- A requirement for sugar manufacturers to
 - Declare costs of production including the basis for such costs with the Sugar Board of Tanzania ("the Board"), such declaration to be made at the beginning of every production season;
 - Publish, in a newspaper of wide circulation, names of their sugar distributors for each region;
- A provisional registration licence to sugar manufacturers, small scale sugar plants operators and industrial users of sugar to be issued by the Board with the aim of:
 - Monitoring progress of the implementation;
 - Facilitating new applicants to acquire the required permits at initial stage; and
 - Determining the viability and sustainability of an entity registered under the provisional licence or registration.

The Law of the Child Act

The Budget speech had proposed to introduce a registration fee of TZS 100,000 for daycare centres and crèches, along with an annual fee of TZS 200,000. However, this proposal did not find its way into the Bill.

Contact Us

Rishit Shah

Partner/ Director – Tax Leader
M: +255 754 400 704
rishit.shah@pwc.com

 [LinkedIn](#)

David Tarimo

Country Senior Partner
M: +255 754 784 844
david.tarimo@pwc.com

 [LinkedIn](#)

Mirumbe Mseti

Partner/ Director – Tax Services
M: +255 0767 438816
mirumbe.mseti@pwc.com

 [LinkedIn](#)

Joseph Lyimo

Partner/ Director – Indirect Tax
M: +255 767 992 506
joseph.lyimo@pwc.com

 [LinkedIn](#)

Ali asger Dawoodbhai

Partner/ Director – Transfer Pricing
M: + 255 758 807 589
ali.dawoodbhai@pwc.com

 [LinkedIn](#)


Jonia Kashalaba

Associate Director – Tax Services
M: +255 743 017 195
jonia.k@pwc.com

 [LinkedIn](#)

Redempta Maira


Associate Director – Tax Services
M: +255 755 068 840
maira.redempta@pwc.com

 [LinkedIn](#)




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www.pwc.co.tz

 +255 22 219 2000

 [LinkedIn](#)

 info@pwc.co.tz