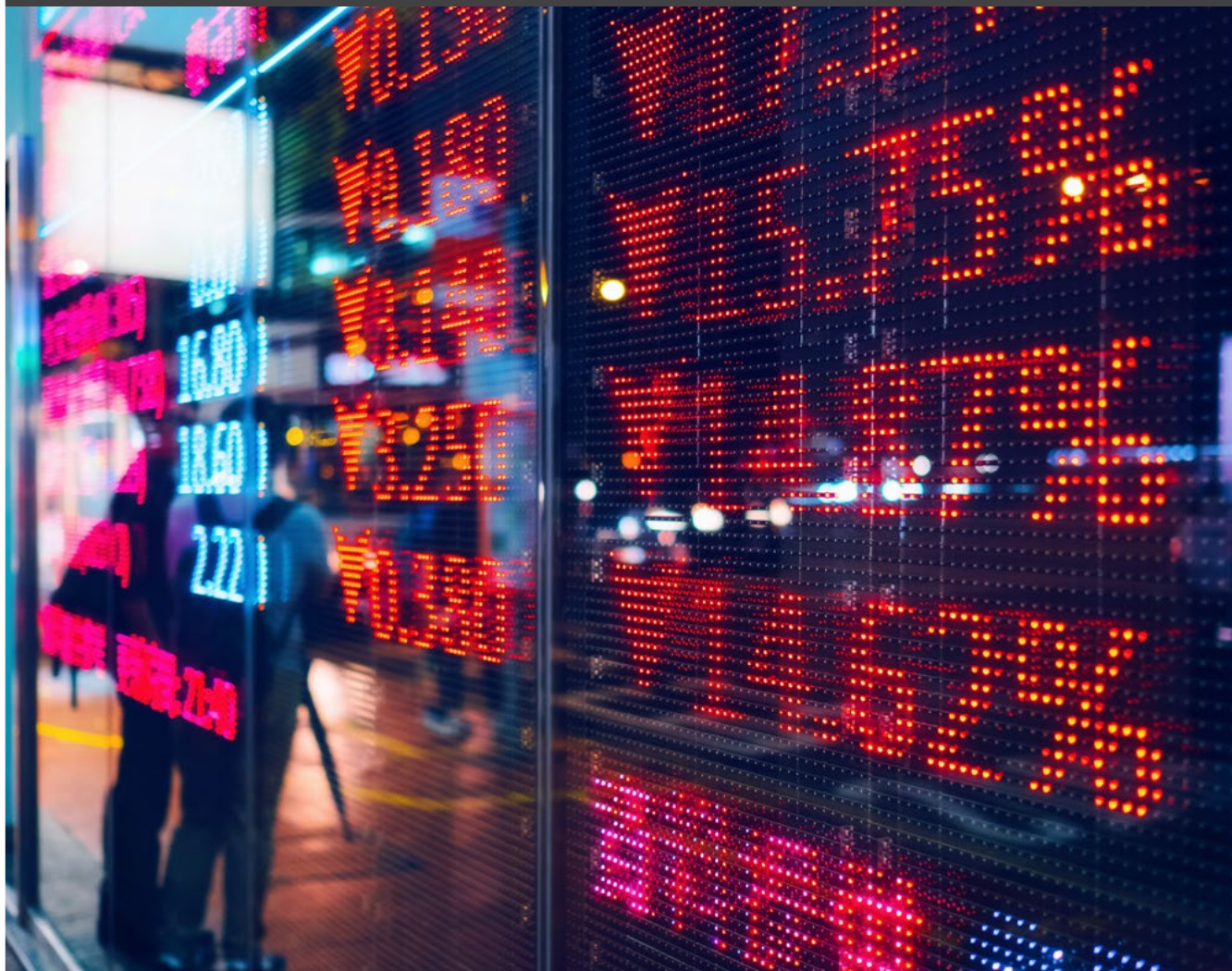


Tax Alert

Finance Act 2021 update

General / Commencement

This newsletter is an update on our newsletters on the Budget Speech and the Finance Bill 2021 (“the Bill”) issued on 11 and 23 June 2021 respectively. It summarises additional points arising from our review of the Finance Act 2021 (“the Act”) (assented on 30 June 2021). The amendments set out in the Act are effective from 1 July 2021 (unless specifically stated otherwise).



In Brief

Income Tax, SDL

- Transfer pricing penalty - 100% of the tax shortfall (instead of the transfer pricing adjustment)
- Small scale miners - proposed income tax and SDL changes not reflected
- Exemption:
 - Specific development projects funded by the Government - Ministerial powers extended to cover a “non-concessional loan agreement”
 - Interest on listed Government bonds - exemption only applicable to a bond with a term of three years or more

Gaming Tax

- Sports betting - reinstatement of 25% rate

Excise Duty

- Spirits rate increase - revised to 20% (instead of 30%)

Electronic Communications - levy on airtime; money transfer levy

- New levies to be accounted for based on regulations, and within a range of rates (airtime levy rate between TZS5 and TZS222.7; mobile money transfer levy rate between TZS10 and TZS10,000)

Stamp Duty

- Conveyance rate - confirmed as 1% (not 4%)

Value Added Tax

- Exemptions - various amendments related to: (i) pharmaceutical packaging materials (ii) imported precious metals and mineral concentrates (iii) imported artificial grass

Public Audit Act - expanded definition of “public authority”

- Controller and Auditor General (CAG) - empowered to audit a public authority or body in which the Government has a shareholding of more than 50%

Income Tax, SDL

Transfer pricing penalty

The Budget speech mentioned the removal of the 100% penalty for a transfer pricing adjustment (included in the 2018 Transfer Pricing Regulations) and the Tax Administration Act (“TAA”) 2015 is now amended to include a specific transfer pricing penalty of 100% of the “tax shortfall”.

This penalty, though still punitive, is a fairer approach when compared to the penalty on the “transfer pricing adjustment” provided for in the Regulations.

In addition, its inclusion in the primary legislation (TAA 2015) instead of the secondary legislation (the Regulations) is more appropriate as it was questionable whether secondary legislation could impose a penalty not reflected in the primary legislation.

Small scale miners - reversal of proposed changes

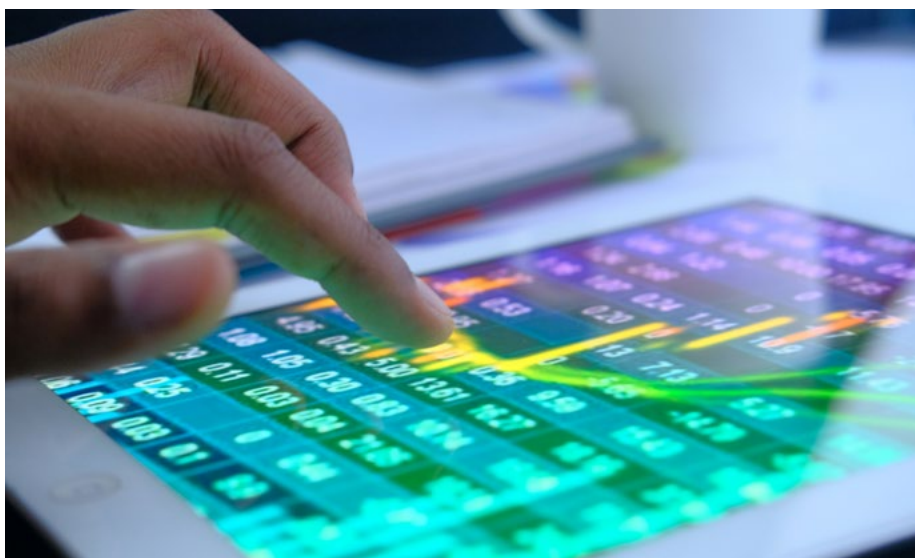
Proposed amendments in the Bill in relation to small scale miners (including a 3% income tax and 0.4% SDL, both on the sale value of minerals) are not reflected in the Act.

Exemption - Government funded development projects: non-concessional loan agreements

Agreements between the Government of Tanzania and a donor or lender that can be granted an income tax exemption by the Minister will include not only a “grant agreement” and “concessional loan agreement” (as originally stated in the Bill), but also a “non-concessional loan agreement”.

Exemption - Interest on Government bonds - Bonds of three years or more

The Budget Speech referred to an exemption for interest derived from all Government bonds, which the Bill restricted to bonds issued and listed on the Dar es Salaam Stock Exchange from 1 July 2021; the Act further restricts the exemption to bonds of not less than three years. (In practice, the majority of Government bonds are for a period longer than 3 years.)





Workers Compensation Fund (“WCF”)

There is no mention of the WCF rate change (from 1% to 0.6% for the private sector) in the Finance Act.

However, the original rate of 1% was introduced through a Government Notice (GN No. 212A dated 30th June 2016) and so we also expect the announced rate change to be reflected through a Government Notice.

Gaming Tax - Sports Betting

The Budget Speech had mentioned an increase in tax on sports betting to 30% of the gross gaming revenue from the existing 25%, with the additional 5% amount to be allocated to the Sports Development Fund (“SDF”). The Act maintains the original 25% rate, but does still provide for the 5% SDF allocation.

Excise Duty - Spirits - 20% increase

The increase in excise duty on spirits (whether imported or locally manufactured) is 20% (instead of the original proposal of 30%).

Electronic Communications Levies

Airtime levy (“development levy on airtime”)

The new levy on airtime will be charged at rates between TZS5 and TZS222.7; although the denominator is not stated it is understood to be by reference to recharge amount.

Regulations that prescribe the manner and modality for collection and accounting for the levy are to be issued by the Minister for Finance following consultation with the Minister for Communication & ICT.

Mobile money transfer transaction levy

The new mobile money transfer transaction levy will be charged at rates between TZS10 and TZS10,000 (assumed to be per transaction and dependent on transaction amount).

Again, regulations that prescribe the manner and modality for collection and accounting for the levy are to be issued by the Minister for Finance following consultation with the Minister for Communication & ICT.

Stamp Duty - “conveyance” rate confirmed as 1%

As anticipated (see our Finance Bill newsletter), the Act confirms the stamp duty rate applicable on conveyance to be 1% (not 4% shown in the Bill).

Value Added Tax (“VAT”) exemptions

Packaging material for pharmaceutical products - removal of name requirement

The VAT exemption for packaging material for locally manufactured pharmaceutical products no longer requires the name of the local manufacturer to appear on the packaging material.

Imported minerals

Imported precious and mineral concentrates eligible for exemption have been expanded to include tin, tungsten, tantalum and loaded carbon.

Imported artificial grass for football pitches

The exemption for imported artificial grass for football pitches has been extended to include pitches located in municipal councils (in addition to city councils). In addition, the approver will be the National Sports Council of Tanzania (instead of the Tanzania Football Federation).

Public Audit Act - expanded definition of “public authority”

The constitutional mandate of the Controller and Auditor General (“CAG”) (as set out in Section 5 of Public Audit Act (“PAA”) GN No 96 of 2008) includes *“to audit and report on the accounts, financial statements and financial management of: (i) The Government of the United Republic, that is to say, Ministries, Independent Departments, Executive Agencies, Public Authorities and Other Bodies and Donor Funded*

Projects; (ii) the local government authorities (iii) the Judiciary; and (iv) the National Assembly”.

Previously, the definition of “public authority” read as follows: *“public authority” means a body of persons, whether or not corporate, established by or under any written laws, other than the Companies Act, whose functions are of public nature and are exercised in furtherance of the public policy determined by the Government”.*

The Act expands this definition of a “public authority” to include an authority or body:

- Which is in receipt of a contribution from, or the operations of which may, under the law or instrument relating thereto, impose or create a liability upon, public funds;
- Where the government controls more than fifty percent of the shares;
- Whose accounts are, by or under any written law, required to be audited or are open to inspection, by the CAG; or
- Which in any financial year has received more than half of its income from public funds.



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