PwC Newsletter

Zanzibar Tax & Regulatory Update

August 2020

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In brief

This newsletter summarises tax and regulatory changes effective in Zanzibar from 1 July 2020 and enacted under the following:

- The Zanzibar Finance (Public Revenue Management) Act, 2020 ("the Act"),
- The Value Added Tax (Amendment) Regulations, 2020 ("the Amendment Regulations") and
- The Value Added Tax (Amendment of Schedule) Order, 2020 ("the Order").

Measures introduced as a response to the impact caused by COVID-19 on the economy include a reduction in VAT and hotel levy, and potential filing and payment deadline extensions.

Value Added Tax ("VAT")

Standard VAT rate reduced to 15% (from 18%)

The Act reduces the value added tax standard rate from 18% to 15%.

Matters for taxpayers to consider include:

- **Transitional Considerations:** There are no transition provisions set out with respect to this change – for example, to deal with a scenario where payment has been made or an invoice issued prior to July 2020 for services to be supplied from July 2020 onwards. In the absence of such provisions, it would appear that the application of the new rate would be determined by the normal time of supply rules (set out in section 6 VAT Act 1998).
- **Administrative considerations:** Taxpayers need to consider system and documentation changes required to incorporate the new rate. For businesses operating in both Mainland (where the standard rate remains 18%) and Zanzibar, the use of differential rates may cause additional administrative challenges.

VAT registration threshold - TZS 50 million (12 months)

The Amendment Regulations increase the VAT registration threshold to TZS 50 million (previously TZS 30 million) in a period of twelve consecutive months (or TZS 12.5 million (previously TZS 7.5 million) in a period of three consecutive months).

This change will ease the compliance burden for small businesses, and is unlikely to result in significant tax revenue loss as unregistered businesses are not able to claim VAT input tax.

Introduction of VAT exemptions

The Order introduces the following new exemptions:

- Locally produced unprocessed solar sea salt; and
- Fishing implements of specified HS Codes (fishing nets, floats for fishing nets, outboard engine, fishing vessels of length over 18 metres, fish hooks).

Hotel levy

Reduction of hotel levy to 12% (from 18%)

Hotel levy (payable by hotel operators, restaurants and other tourism services) is reduced to 12% of the taxable value of chargeable services.

Property tax

The Act gives the Minister powers (by order published in the Gazette, and subject to approval of the Revolutionary Council) to specify a property or categories of properties that will be subject to specific amounts of property tax (to be collected by the Zanzibar Revenue Board ("ZRB")).

Tax Administration – Notices of Objection

Objections now administered under the Tax Administration and Procedures Act, 2009 ("TAPA 2009")

The Act amends the objection provisions by:

- Repeal of previous provisions that dealt with notices of objection (sections 16 to 19 Zanzibar Tax Appeals Act, 2006 ("ZTAA 2006"))
- Introduction of a new provision (section 21A TAPA 2009) with similar procedures and timelines as those repealed except as set out below.

Objection decision

"Objection decision" is now defined as "a final decision made by the Commissioner in the determination of an objection in accordance with the provisions of the Tax Administration and Procedures Act".

Certain decisions are not subject to objection (including: decision to audit, investigate or assess; issuance, refusal to issue or revocation of practice notes; decisions or omissions that affect a person as a tax officer, employee or tax agent of the ZRB; and compounding of offence with consent of the applicant).

Objections – timelines, format, tax payment requirement, admission of objection

A notice of objection must be:

- Filed within 30 days of service of the decision (previously 21 days); but, subject to a potential extension of time of up to a further 30 days (previously there was no provision for extension).
- In a prescribed form (as per the TAPA 2009 Regulations)

Failure to pay tax deposit to validate an objection against an assessment renders the objection as not filed such that the assessment will be treated as final and the tax assessed as payable.

Where the Commissioner refuses to admit the notice of objection, the taxpayer may appeal against the refusal to the Zanzibar Tax Appeals Board. However, Section 20(2) ZTAA 2006 requires that before an appeal is lodged, the tax not in dispute or one-third of the assessed tax, whichever is greater should have been paid.

Determination of objection – 90 day deadline

A new provision (Section 21B TAPA 2009) sets out procedures and timelines in respect of the determination of an objection similar to those repealed in the ZTAA 2006, except that the Commissioner is now required to determine an objection within 90 days.

If the Commissioner does not determine the objection within 90 days, he is deemed to have agreed to amend the assessment in accordance with the objection. (By contrast, although the repealed section 17 ZTAA 2006 contained a similar deeming provision, it only applied where the Commissioner did not communicate in writing with the taxpayer within 30 days of the objection – in other words, the Commissioner could respond to the objection without necessarily determining it.)

This amendment implies that all correspondence with the taxpayer such as request for additional information as well as determination of the objection should be done within 90 days.

Compliance with personal data protection standards

The exchange and collection of tax information is required to be in line with personal data protection standards.

Decisions subject to appeal limited to objection decisions

Decisions that can be the subject of an appeal to the Zanzibar Tax Appeals Board are limited to objection decisions. This is the result of:

- An amendment to section 61 TAPA 2009 to include such a limitation
- The repeal of section 18 ZTAA 2006 which set out appeal procedures for other decisions of Commissioner (which basically treated these appeals as if they were an appeal against an assessment).

Prior to this change, any decision of the Commissioner could be appealed to the Zanzibar Tax Appeals Board. Following this amendment it appears that taxpayers will not be able to challenge other decisions by the Commissioner (such as refusal to refund, drawbacks, etc.).

Tax Administration – Other Matters

Potential extension of time for tax return or payment

The Minister, by order published in the Gazette, may extend the due date for filing a tax return or payment of tax either generally or to a specific sector or group of taxpayers if there exist reasonable grounds for such extension. These decisions are subject to approval by the Revolutionary Council.

With regards to extension of time to pay tax, section 31 TAPA 2009 already contains provisions that allow the Commissioner to accept an application for extension of time to pay tax by an individual taxpayer where there is a good cause.

New power to make regulations for identification of business premises in relation to a taxable person

For the purpose of proper administration of tax, Minister is granted powers to make regulations for identification of business premises in relation to a taxable person.

Other regulatory developments

The Zanzibar Investment Promotion and Protection Authority Act, 2018

“Strategic Investors” are required to:

- Comply with the approved list as jointly approved by ZIPA and Customs Department, and
- File monthly compliance reports to the Minister for Finance and Planning.

Public Finance Management Act, 2016

Guidelines on tax treatment of Official Development Assistance (ODA) projects

The Minister may (by order published in the Government Gazette) issue guidelines based on international tax principles to facilitate the consideration of whether ODA projects should be exempted from taxes, provided that these guidelines are not contrary to the relevant tax laws. The guidelines will only cover the tax treatment of ODA projects involving development assistance provided by foreign governments and their aid agencies as well as multilateral organisations.

Employment Act, 2005

Introduction of penalty for failure to renew work permit or notify of cancellation of employment contract

Failure to renew a work permit or submit a cancellation of contract within fourteen days of expiry of such permit or contract will now result in a penalty TZS 500,000 for such failure, and an additional penalty of the same amount will apply for each subsequent thirty-day period of delay. We understand that the requirement in respect of cancelled contractors only applies to work permit holders.

Work permit fees – exemption / reduction

Exemption from payment of work permit fees will now apply to individual shareholders who:

- Hold investments that qualified as strategic investments or
- Own more than 25% shareholding in investments approved by the ZIPA

Prior to this amendment the exemption was not available to individual strategic investors and there was no minimum shareholding required in ZIPA approved investments.

Foreign employees of public institutions are now exempt from work permit fees where an agreement provides for such exemption.

The Minister may, after consultation in writing with the Minister for Finance grant an exemption or a reduction in payment of work permit fees if it is in the public interest. Previously, this was limited to foreign employees exempted under the Act.