
Tax News Alert – Budget 2016 – Finance Act 2016 Update

July 2016

In brief

This newsletter is an update on our newsletters on the Budget Speech and on the Finance Bill 2016 issued on 9 and 14 June 2016 respectively. It summarises additional points arising from our review of the Finance Act 2016 (assented on 30 June 2016).

Commencement

The Finance Act confirms that the amendments set out in the Act are effective 1 July 2016.

Value Added Tax

Additional amendments in relation to VAT exemptions and excise duty rates as set out in the Appendix.

Income Tax – Investment Income

- **Exemption for listed shares:** Reinstatement of exemption of gains arising from disposal of shares listed on the Dar es Salaam Stock Exchange (“DSE”). (The Finance Bill 2016 (“the Bill”) had originally proposed to remove the exemption on DSE shares by way of amendments to the definition of the term “investment asset”).

Income Tax – Business Income

- **Definition of “business”:** The Bill had proposed an extension to the definition of the term “business” 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”. This proposed extension has now been removed.

- **Interest deduction – thin capitalisation:** The Bill had proposed an amendment of the definition of the term “debt” for thin capitalisation purposes that would have extended this definition to cover non-interest bearing debt. This proposed amendment has now been removed.
- **Professional Services:** Withholding tax continues to apply to payments to resident professional service providers at a rate of 5%; however the proposed amendment to treat this withholding tax as a final tax has been removed.
- **Extractive Sector (Mining / Oil and Gas):**
 - Removal of proposed amendments to treat joint holding of a mineral right or petroleum right as a partnership for tax purposes;
 - Power granted to the Minister for Finance (after consultation with the Minister responsible for mining) to make regulations in relation to the ring-fencing rules (which provide for separate taxation of separate mining or petroleum operations).
 - Tax deduction for expenses incurred by a mining company in respect of acquisition of rehabilitation bond.

- **Corporate income tax rate – Oil and Gas:** Corporate income tax rate for entities engaged in petroleum operations to remain at 30%. (The Bill had originally proposed an increase to 35%.)

Income Tax – Withholding Tax

- **Services provided by non-resident:** The Bill had introduced a definition of the term “rendering of service” to be included in the source rules (under section 69). This definition is no longer included under section 69, but has instead been moved to the general definitions (in section 3). The definition now reads “*service rendered’ means transmitting or delivering of service in the United Republic of Tanzania irrespective of the place of performance of service*”. The intention of this change appears to be to make the place of performance of services irrelevant for determining source for the purpose of withholding tax on payments for services to non-residents.
- **Payment of dividend by a Tanzania intermediary holding company:** The Finance Act 2012 removed the withholding tax exemption on local intra-group dividends, which are now subject to a withholding tax of 5%. The result of this amendment is double taxation of dividends where dividends are paid through a local holding company. To mitigate this, an amendment was made in the Finance Act 2014, which sought to give an imputed tax credit to offset a dividend withholding tax liability if the effective source of funds for the dividend payment was dividend income that had already suffered withholding tax. The wording of this credit provision was however unclear. The Finance Act 2016 reverses the amendment made in 2014 and thereby removes this credit provision. (This change was also included in the Bill but was inadvertently not covered in our Finance Bill Update newsletter.)

Tax Administration

- **Disclosure obligation on construction and extractive industry:** Requirement to disclose information by a person engaged in construction or extractive industry now extended to information in relation to contractors (whereas the Bill had only referred to subcontractors). The fine for failure to comply with this requirement has also been increased to greater of “25% of the quantum payable under the project or not less than 4,000 currency points” (currently equivalent to TZS 60m). (The Bill had referred to 3,400 currency points (currently equivalent to TZS 51m).)
- **Tax deposit on objection:** The Act reinstates the minimum payment requirement back to the higher of one-third of the tax assessed (instead of all the tax assessed as proposed in the Bill) or tax not in dispute. However, the requirement to make this deposit within 30 days remains unchanged. Failure to make the tax deposit on objection within 30 days will result in the assessment being treated as final.
- **Remission of interest:** The Bill proposed a change which would give power to the Minister upon consultation with the Commissioner General to remit interest subject to a percentage limitation (which was not stated in the Bill). The Act now provides that the limit will be 50% of the interest assessed.
- **Interest for failure to pay tax:** The Bill proposed to change the basis for calculation of late payment interest from the Bank of Tanzania (BoT) discount rate to an immediate penalty of 5% and a monthly penalty of 5%. The Act does not include this amendment and so the basis for any interest charge will remain the BoT discount rate.

Electronic Communications / Telecommunications / Postal Services

New local shareholding and listing requirements clarified as follows:

- **Entities with Network facilities, Network services of Application services licence:**
 - Minimum local shareholding requirement of 25% of authorised share capital, to be met by way of initial public offering followed by listing at the DSE;
 - Existing entities to list within 6 months (i.e. by 31 December 2016);
 - New licensees to list within 2 years of grant of licence;
 - Subsequent transfer of shares – requirement to comply with the Capital Markets and Securities Act.
- **Entities with Content Services licence**
 - Minimum local shareholding requirement of 51% of authorised share capital.

Do contact our Tax specialists for further clarification.

Contact us in Dar es Salaam

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Value Added Tax

- Additional exemptions:
 - Dam liner;
 - Insurance for workers compensation;
 - New exemption for goat and cow milk now covers both pasteurised and unpasteurised milk but excluding milk with additives and long life milk.

Excise Duty

Change in excise duty rates on certain items as follows:

Description	Old rate (TZS)	Bill rate (TZS)	New rate (TZS)
Locally produced fruit juices under HS code 20.09	9.00 / litre	TZS 10 / litre	TZS 9.50 / litre
Cigarettes containing >75% domestic tobacco:			
Without filter	11,289 /mil	11,853 /mil	11,854 /mil
With filter	26,689 /mil	28,023 /mil	28,024 /mil
Other	48,285 /mil	50,699 /mil	50,700 /mil
Cut rag / filler	24,388 / kg	25,607 / kg	24,388 / kg
Petroleum oil and oil obtained from bituminous minerals (other than crude) containing >= 70% petroleum oils or of oils			
Lubricants in liquid form	655.50/m ³	-	669/m ³
Lubricating greases	0.75/kg	-	0.79/kg
Lubricating preparations but excluding preparation containing as basic constituents >= 70% by weight of petroleum oils or of oils obtained from bituminous minerals			
Lubricating oil preparations	655.50/m ³	-	669/m ³
Greases oil preparations	0.75/kg	-	0.79/kg