
Tax News Alert – Budget 2017 – Finance Act 2017 Update

July 2017

In brief

- VAT - removal of certain conditions for zero-rating of ancillary services
- Railway Development Levy – no longer applicable on Jet A-1 fuel
- Skills and Development Levy – exemption for registered education institutions
- Underestimation Interest – change to basis of calculation
- Electronic Communications – application service providers excluded from mandatory listing requirement
- Mining – changes to come into effect “on such a date as the Minister may, by Notice published in the Gazette, appoint”

General / Commencement

This newsletter is an update on our newsletters on the Budget Speech and the Finance Bill 2017 (“the Bill”) issued on 9 and 15 June 2017 respectively. It summarises additional points arising from our review of the Finance Act 2017 (“the Act”) (assented on 30 June 2017). The amendments set out in the Act (other than amendments to the Mining Act) are effective from 1 July 2017.

Value Added Tax

- **Zero-rating of ancillary transport services on transit goods:** To qualify for VAT at the zero rate (0%) on the supply of ancillary transport services in relation to goods in transit, the service will need to be:
 - An integral part of the supply of an international transport service; and
 - In respect of goods stored at the port, airport or a declared customs area for not more than thirty days while awaiting onwards transportation.

The earlier requirement stated in the Bill for the service to be rendered by the same supplier providing international transport service has now been removed, and the maximum storage period has been increased from seven to thirty days.

- **Exemption - ambulances:** Importation of ambulance of HS Code 8703.90.10 by a registered health facility other than a pharmacy, health laboratory or diagnostic centre.

Railways Development Levy (“RDL”)

- **Exemption of Jet A-1 fuel:** Kerosene type Jet Fuel (Jet A-1) (under HS Code 2710.19.21) is now exempt from RDL.

Skills and Development Levy (SDL)

- **SDL exemption for registered education institutions:** Institutions now exempt from SDL include the following: (i) nursery, primary and secondary schools; (ii) vocational, educational and training schools; and (iii) universities and higher learning institutions.

Income Tax

- **Charitable organisations:** The Act does not include various new additional conditions originally proposed by the Bill (in particular, requirements for (i) services provision free of charge or at a reasonably affordable fee to the general public; (ii) transfer of assets on winding up or liquidation to another charitable organisation in Tanzania; and (iii) annual disbursement of more than eighty per cent of contributions). However, the new definition of the term “an entity of a public character” has been maintained.
- **Share listing threshold for reduced Corporate Income Tax (“CIT”) rate for newly listed entities:** The Bill had proposed to increase the threshold for reduced CIT rate of 25% for newly listed companies from 30% to 35% of shares publicly issued. The Act no longer reflects this proposal and so the original 30% threshold remains.

Tax Administration

- **Determination of objection:** The Bill had proposed inclusion of the words “*aggrieved by a final determination of objection by the Commissioner General*” to replace “*aggrieved by an objection decision or other decision or omission of the Commissioner General*” in the provisions dealing with the appeal procedure. The Act no longer includes this change and so the existing provision remains unchanged.

- **Underestimation interest:** The basis of calculation of underestimation interest under the Income Tax Act (“ITA”) 2004 has been an area of disputed interpretation - in particular, whether it should be on the difference between the estimated tax and (i) 80% of the final income tax (as argued by taxpayers), or (ii) 100% of the final income tax (as argued by the Tanzania Revenue Authority (“TRA”). Taxpayers supported their interpretation of the former by reference to:
 - Legislative wording – in particular, the definition of “correct amount” in the Act, which explicitly referred to 80% of the final tax,
 - IMF commentary on Model Income Tax Act (which has similar wording)
 - Equity / Logic – for example, where the final tax is 100 and you compare (i) an estimate of 81 and (ii) an estimate of 79, then under (i) there is no underestimation liability but under (ii) there is, and there is logic and equity in applying the penalty simply to 1 rather than 21.

The Tax Administration Act (“TAA”) 2015 had removed any uncertainty (if indeed there was any) by unambiguously stating that the interest should be computed on the difference between 80% of the total amount and the tax paid. However, the Act has now amended the wording in the TAA 2015 to align with the TRA interpretation – namely the difference between 100% of the final tax and the estimated tax.

- **Registration of informal sector:** Small vendors and service providers (including hawkers, caterers, event managers, masters of ceremony, etc.) are now required to be registered and issued an identity card by the Commissioner General.

- **Wharfage revenue – collection by TRA:** An amendment to the Ports Act means that wharfage revenue will now be collected by the TRA and deposited in a bank account at the Bank of Tanzania. The revenue will be disbursed to the Tanzania Ports Authority by the Paymaster General.
- **Gaming tax to be collected by the TRA:** Initially, the payment of gaming tax was made to the TRA, however the Finance Act 2006 amended the Gaming Act whereby payments became payable to the Gaming Board of Tanzania, which would then remit 64% of the revenue to the TRA. The Finance Act 2017 has reinstated the payment of gaming tax to the TRA.

Local Taxes

- **Produce Cess on food crops – 3%:** Whilst, the Budget Speech and the Bill had proposed to reduce Produce Cess on food crops from 5% to 2%, the Act now sets the rate at 3% (the same as the reduced rate now applicable on cash crops).
- **Declaration of rateable areas:** Specified rateable areas for the purpose of the Urban Authorities (Rating) Act are City Councils, Municipal Councils and Town Councils, and TRA will assess, collect and account for Property Tax for these areas.
- **Management and disbursement of funds by Minister for Finance:** The Act grants powers to the Minister for Finance to provide for management and disbursement of fees and property rates.

Electronic Communications / Telecommunications / Postal Services

- **Amendment to the listing shareholding requirements:** The mandatory listing requirement introduced by the Finance Act 2016 applied to entities licenced to provide network facilities, network services or application services. In addition, the minimum shareholding requirement of twenty five percent was in respect of local shareholders. The Act now excludes application services providers (ASPs) from the mandatory listing requirement. In addition the restriction to local shareholders is now removed.

Financial Sector

- **Depositing money with the Bank of Tanzania (“BoT”):** Government and public authorities are now required to open accounts and deposit all their moneys with the BoT.

Mining

- **Commencement date:** Unlike other Acts, changes made under the Mining Act (for example, the 1% clearance fee on export of minerals) will come into effect “on such a date as the Minister may, by Notice published in the Gazette, appoint”.

Contact us in Dar es Salaam

David Tarimo

Partner/Director - Tax
Tel: +255 22 219 2600
david.tarimo@pwc.com

Rishit Shah

Partner/Director - Tax
Tel: +255 22 219 2601
rishit.shah@pwc.com

Joseph Lyimo

Partner/Director – Indirect Tax
Tel: +255 22 219 2613
joseph.lyimo@pwc.com

Mirumbe Mseti

Partner/Director – Direct Tax
Tel: +255 22 219 2616
mirumbe.mseti@pwc.com

Ali asger Dawoodbhai

Associate Director – Direct Tax / Transfer Pricing
Tel: +255 22 219 2620
ali.dawoodbhai@pwc.com

Michael Quinton

Senior Manager – Direct Tax
Tel: +255 22 219 2612
michael.quinton@pwc.com

Aloys Byemerwa

Senior Manager – Tax Reporting Services
Tel: +255 22 219 2615
alloys.byemerwa@pwc.com

Contact us in Arusha

Pamella Salehe

Manager - Tax
Tel: +255 27 254 8881
pamella.salehe@pwc.com

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