

Tax News Alert – Zanzibar Finance Act 2019 Update

July 2019

In brief

- Tourist vessels – now subject to hotel levy
 - Taxable value of a supply – deemed receipt of “normal price” even if complimentary
 - Receipts - threshold for issuing EFD invoices/receipts to be published in the Gazette; manual invoices/receipts (issued by suppliers below EFD threshold) to contain prescribed particulars
 - Late payment interest – Bank of Tanzania (BoT) lending rate at the beginning of the calendar year plus five per cent
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General / Commencement

The Finance (Public Revenue Management) Act 2019 of Zanzibar (“the Act”) was assented on 28 June 2019 and is effective from 1 July 2019. This newsletter summarises changes introduced by the Act.

Hotel levy on tourist vessels

- **Hotel levy on tourist vessels:** The Act has included the term “*tourist vessel*” under section 3(2) of the Hotel Levy Act 1995. Accordingly, with effect from 1 July 2019, hotel levy will be payable by operators of tourist vessels. We understand that the levy will be charged at a flat rate per person.

A “*tourist vessel*” has been defined to mean “*a sea going vessel that has been designed to provide board and lodging for a payment*”.

Tax Administration

- **Taxable value of a supply:** The Act has amended Section 4 of the Tax Administration and Procedures Act 2009 (TAPA 2009) to deem a taxable person to have received a “*normal price*” including where the price paid “*is less than the normal price for the goods supplied or services rendered*” where such supply is “*by way of complimentary or any other form of agreement*”.

The term “normal price” has been defined to mean “*the sum of money which the taxable person would normally require to be paid from an independent customer or agent for the goods or services so rendered*”.

It is unclear if the aim of the change is to capture only related party transactions or to apply to all transactions. On one interpretation, the definition of “normal price” and the reference to prices paid by independent parties as constituting “normal price” might imply a limitation of the provision to transactions between parties that are not independent. If this interpretation is adopted, then normal supplier discounts or rebates to third parties

would be subject to tax on the discounted prices. In such a scenario, it would be important that such discounts are shown clearly on the invoices issued to customers.

However, the provision does not explicitly limit its scope to transactions parties that are not independent (i.e. associated / related parties), and so it is possible that a wider interpretation may be adopted.

Even if its scope is limited to transactions with parties that are not independent, it is important to note that the term “independent party” has not been defined. In absence of a definition, there is a risk of the Zanzibar Revenue Board (ZRB) adopting a very wide interpretation as to who is not an independent party.

- **Threshold for issue of fiscal invoices / receipts from Electronic Fiscal Devices (EFDs):** The Finance Act 2017 of Zanzibar introduced a requirement for suppliers of goods and services to issue fiscal invoices/receipts through EFDs. The Act has now prescribed that the Minister shall publish in the Gazette, a threshold for a person to be required to issue fiscal invoices/receipts using EFDs.
- **Particulars to be included on a manual invoice/receipt:** Suppliers below EFD threshold who issue manual invoices/receipts must ensure that these include the following particulars:
 - The words “tax invoice”, “receipt” or “cash sale”;
 - Serial number;
 - Taxpayer Identification Number;
 - Business Registration Number (BRN);
 - Trade name;
 - Address and registration number of the supplier;
 - Name and address of the client;
 - Date of invoice/receipt;
 - Quantity/volume, unit price and total value of the supply;
 - Tax charged; and
 - Seal as well as signature of the supplier or his representative.
- **Amendment on the basis for computing late payment interest:** The Act has amended Section 33 of the TAPA 2009 to delete the commercial bank lending rate that was used as the basis for calculation of late payment interest and replacing it with the lending rate issued by the Bank of Tanzania (BoT) at the beginning of each calendar year. Therefore, the interest rate used will now be the BoT lending rate plus the additional five percent. Also, this means that one fixed rate will be applicable when computing late payment interest for each year under review.

An additional observation on the amendment is that it adds the words “plus five” after stating the interest rate to be used (but not “per cent”). We believe this is an oversight and the words “per cent” should have followed “plus five”.
- **Remission of interest, penalty or fine:** The Finance Act 2018 granted powers for the Minister to remit or waive the whole or part of tax payable as specified in the Gazette. The Act now provides for the Minister to prescribe the eligibility criteria, duration and procedures for accessing this remission.

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