

GOVERNMENT OF ZAMBIA

ACT ✕

No. 12 of 1982 ✕

Date of Assent: 4th April, 1982 ✕

An Act to amend the Income Tax Act

[8th April, 1982 ✕

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 1982, and shall be read as one with the Income Tax Act, hereinafter referred to as the principal Act.

Short title  
and  
commence-  
ment.  
Cap. 668

(2) Paragraph (e) of section *seventeen* of this Act shall be deemed to have come into operation on the 1st April, 1981, and shall have effect in relation to assessments for the charge year ending on the 31st March, 1982, and in relation to each subsequent charge year.

(3) The provisions of this Act other than paragraph (e) of section *seventeen* shall come into operation on the 1st April, 1982, and shall have effect in relation to assessments for the charge year ending on the 31st March, 1983, and in relation to each subsequent charge year.

2. Section *two* of the principal Act is amended in subsection (1)—

Amendment  
of  
section 2

(a) by the deletion of the definition of "business" and the substitution therefor of the following definition:

"business" includes—

- (a) any profession, vocation or trade;
- (b) any adventure or concern in the nature of trade whether singular or otherwise;
- (c) manufacturing; and
- (d) farming;

(b) in the definition of "dividend" by the insertion immediately after "shareholders" of "or any amount deemed to have been distributed pursuant to the provisions of section ninety-five";

(c) in the definition of "lump sum payment"—

- (i) by the deletion of "and" after the semi-colon at the end of paragraph (a);

- (ii) by the insertion of " and " after the semi-colon at the end of paragraph (b); and
- (iii) by the insertion of the following new paragraph:
  - (c) in relation to a beneficiary who is employed on pensionable terms, any amount received or accrued in any period of five years of continuous service which is paid or payable by an employer by way of compensation for leave due but not taken;
- (d) by the insertion in the appropriate place of the following definition:
 

" manufacturer " means a person carrying on the business of manufacturing ;;
- (e) by the deletion of the definition of " manufacturing " and the substitution therefor of the following definition:
 

" manufacturing " means subjecting any physical matter to any process which materially change, such matter in substance, character or appearance thereby making it an article after such process, and includes the assembly of motor vehicles and such other process as the Commissioner may determine to be of a similar nature;
- (f) by the insertion in the appropriate place of the following new definition:
 

" pensionable terms " means terms and conditions of employment under which an employee belongs to any approved pension fund operated by an employer for the benefit of his employees;

Amendment  
of  
section 14

3. Section *fourteen* of the principal Act is amended in subsection (2)—

- (a) by the deletion of the full-stop at the end of the subsection and the substitution therefor of a colon; and
- (b) by the addition thereafter of the following proviso:

Provided that for the purposes of this subsection, " lump sum payment " excludes such payments as are referred to in paragraph (c) of the definition of " lump sum payment " contained in section *two*.

Amendment  
of  
section 17

4. Section *seventeen* of the principal Act is amended—

- (a) in paragraph (f) by the deletion of " rents, ";
- (b) by the deletion of " and " after the semi-colon at the end of paragraph (f);

- (c) by the re-numbering of the existing paragraph (g) as (h); and
- (d) by the insertion of the following new paragraph:  
(g) letting of property; and.
5. Section *thirty-four* of the principal Act is amended—
- (a) in subsection (2) by the deletion of “in any manufacturing process”; and
- (b) by the deletion of subsection (3).
6. Section *thirty-seven* of the principal Act is amended—
- (a) in subsection (1), by the deletion in paragraph (c) of sub-paragraph (ii) and the substitution therefor of the following sub-paragraph:  
(ii) two thousand four hundred kwacha;
- (b) in subsection (3), by the deletion in paragraph (b) of “twenty-four hundred kwacha” and the substitution therefor of “three thousand kwacha”; and
- (c) in subsection (4), by the deletion of “twenty-four hundred kwacha” and the substitution therefor of “three thousand kwacha”.
7. Section *forty-one* of the principal Act is amended in subsection (1) by the insertion after “charge year” where it first occurs of “to the United National Independence Party”.
8. The principal Act is amended by the insertion after section *forty-six*, of the following new section:
- 46A. (1) Without prejudice to the powers of the Commissioner under section *forty-six*, the Commissioner may, by notice in writing, require any person to submit in accordance with this section a return of provisional income for any charge year:
- Provided that an individual who has been required to submit a return under this section and who does not expect to receive assessable income (other than from omoluments) in excess of five hundred kwacha for such charge year, need not submit such return.
- (2) The return of provisional income required under this section shall—
- (a) contain an estimate (based on information reasonably believed to be true) of the individual’s income liable to tax, including income deemed under this Act to be the income of the person in respect of whom the return is submitted;
- Amendment of section 34
- Amendment of section 37
- Amendment of section 41
- Insertion of new section 46A
- Provisional income

- (b) contain a computation of tax based on rates of tax applicable for such charge year and, in the case of an individual, personal allowances to which he is entitled; and
- (c) include a declaration by such person or by the person in whose name he is assessable, that such provisional return includes a full and reasonable estimate of his income for such charge year.

(3) The return of provisional income referred to in subsection (2) shall be furnished not later than the 30th June of the charge year to which such return relates:

Provided that—

- (i) where, during the course of the charge year, any person discovers that the return of provisional income furnished under this section is likely to be substantially incorrect because of changed circumstances, such person shall furnish an amended return of revised provisional income and in such case, any alteration in the amount of estimated tax payable shall be taken into account in the next instalment (pursuant to section *seventy-seven*) immediately following the date of such amended return;
- (ii) where, upon the receipt of a return of income pursuant to section *forty-six*, it is discovered that income has been so underestimated that the tax on such estimate has been underpaid by at least one-third, then, in addition to the penalties contained in section *seventy-eight*, such person shall be liable to an additional penalty under this section calculated at the rate of ten per centum of the tax which has been underpaid.

(4) Subject to subsection (1), any person chargeable with tax for any charge year who has not been required to furnish a return of provisional income under subsection (1) shall, within fourteen days of the expiration of the period prescribed under subsection (3), furnish the Commissioner with an estimate of his income for such charge year specifying therein the details required by subsection (2).

9. Section *seventy-seven* of the principal Act is amended—

- (a) by the deletion of the proviso to subsection (1) and the substitution therefor of the following new proviso:

Provided that—

- (i) the tax liable to be paid under any assessment made pursuant to subsection (3) of section *sixty-three* or to paragraph (c) of section *sixty-four*, shall be due and payable on demand;

- (ii) provisional tax under section *forty-six A* shall be due and payable in quarterly instalments as follows:

1st instalment on 30th June;  
2nd instalment on 30th September;  
3rd instalment on 30th December;  
4th instalment on 30th March;

of the charge year to which such return of provisional income relates;

- (iii) tax due and payable on any income for the charge year ending the 31st March, 1982, shall be due and payable in four equal instalments as follows:

1st instalment on 14th August, 1982;  
2nd instalment on 14th December, 1982;  
3rd instalment on 14th April, 1983;  
4th instalment on 14th August, 1983;  
and

- (b) by the deletion of subsection (2) and the substitution therefor of the following subsection:

(2) The Commissioner, in his discretion, may extend the time limited by subsection (1) within which tax assessed under section *sixty-three* or *sixty-four* shall be paid.

10. Section *seventy-eight* of the principal Act is amended—

Amendment  
of  
section 78

- (a) by the deletion of subsection (1) and the substitution therefor of the following subsection:

(1) Subject to the provisions of subsection (5), if any tax assessed under section *sixty-three* or *sixty-four* is not paid on or before the date prescribed by subsection (1) of section *seventy-seven*, or as extended pursuant to the provisions of subsection (2) of section *seventy-seven*, a sum equal to five per centum of the tax unpaid shall become chargeable by way of penalty.

- (b) by the insertion after subsection (7) of the following new subsection:

(8) For the purposes of this Act, "provisional tax" means the tax as calculated on the return of provisional income required to be furnished under section *forty-six A*.

Amendment  
of  
section 92

11. Section *ninety-two* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following subsection:

Act No. 11.  
of 1982

(1) The Commissioner may remit tax if he is satisfied that it is not recoverable; and where the person to be charged with tax is also subject to equity levy under the Equity Levy Act, 1982, and the amount of the equity levy is greater than the amount of tax payable under this Act, the Commissioner shall remit such tax.

Repeal of  
section 95

12. Section *ninety-five* of the principal Act is repealed and the following new section is substituted therefor:

Transac-  
tions  
designed to  
avoid tax  
liability

95. (1) Where the Commissioner has reasonable grounds to believe that the main purpose or one of the main purposes for which any transaction was effected (whether before or after the commencement of this Act) was the avoidance or reduction of liability to tax for any charge year, or that the main benefit which might have been expected to accrue from the transaction within the three years immediately following the completion thereof, was the avoidance or reduction of liability to tax, he may, if he determines it to be just and reasonable, direct that such adjustments shall be made as respects liability to tax as he considers appropriate to counteract the avoidance or reduction of liability to tax which would otherwise be effected by the transaction.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the powers conferred thereby extend to—

- (a) the charging with tax the income of persons who, but for the adjustments, would not be chargeable with any tax or would not be chargeable to the same extent;
- (b) the charging of a greater amount of tax than would be chargeable but for the adjustments; and
- (c) the giving of a direction under this section by reason of the fact that in the case of a company no distribution of dividends has been made or only a smaller distribution has been made than might have been made:

Provided that—

- (i) where a charge is made under this section on any company in respect of adjustments which affect the liability to tax of the income of any shareholder, such company shall be entitled to recover from such

shareholder the amount of tax attributable to the adjustment made in respect of such shareholder; and

- (ii) where an adjustment made under this section relates to any distributable profits of a company and such profits are subsequently distributed, appropriate adjustments shall be made in respect of the tax paid or payable by the company and the shareholders in such company.

(3) Any direction of the Commissioner under this section shall specify the transaction giving rise to the direction and the adjustments as respects liability to tax which the Commissioner considers appropriate.

13. The principal Act is amended by the repeal of section *ninety-five A*.

Repeal of  
section 95A

14. The Second Schedule to the principal Act is amended—

Amendment  
of Second  
Schedule

- (a) in sub-paragraph (d) of paragraph 3 by the deletion of the full stop and the substitution therefor of “or secondment to any Zambian organisation, agency, or foundation.”;
- (b) in sub-paragraph (3) of paragraph 5 by the deletion of “six hundred kwacha” wherever it occurs, and the substitution therefor of “eight hundred kwacha”; and
- (c) by the deletion of sub-paragraph (4) of paragraph 9 and the substitution therefor of the following sub-paragraph:

(4) (a) Interest earned on any sum deposited or invested in a building society registered under any law relating to the registration of building societies for the time being in force in the Republic, or deposited in a savings or deposit account with a commercial bank registered under the Banking Act; or deposited in the National Savings and Credit Bank of Zambia (established under the National Savings and Credit Act) shall, if received by an individual ordinarily resident in the Republic, be exempt from tax to the extent prescribed in sub-paragraph (b).

Cap. 586

- (b) The exemptions granted under sub-paragraph (a) shall have effect as follows:
  - (i) in the case of a building society, on the first K500;
  - (ii) in the case of a commercial bank, on the first K400; and
  - (iii) in the case of the National Savings and Credit Bank, on the first K600:

Provided that the total amount of interest to be exempted under this paragraph shall be limited in the aggregate to one thousand one hundred kwacha per individual who receives income (other than such interest) liable to tax for such charge year;

- (c) Interest earned on any public loan raised by the Government or a statutory corporation, or any bond issued under or in respect of such loan, shall be exempt from tax on the first two hundred kwacha if received by an individual ordinarily resident in Zambia:

Provided that the exemption granted by this sub-paragraph in respect of interest on any bond shall not apply to interest or any other benefit which is exempt from tax under the provisions of sub-paragraph (5).

Amendment  
of Fifth  
Schedule

15. The Fifth Schedule to the principal Act is amended in paragraph 10 by the addition of the following new sub-paragraph:

(6) Notwithstanding any other provisions of this Act, the wear and tear allowance on the cost of any new plant or machinery acquired and used by any soft drinks manufacturer in respect of such business carried on by him in a rural area, shall, in any charge year, be calculated on a straight-line basis at the rate of twenty per centum of the cost of such plant and machinery.

Repeal of  
Eighth  
Schedule

16. The principal Act is amended by the repeal of the Eighth Schedule.

Amendment  
of Charging  
Schedule

17. The Charging Schedule to the principal Act is amended—

(a) by the deletion of paragraph 2 and the substitution therefor of the following new paragraphs:

Married  
allowance

2. Subject to paragraph 3, a married allowance shall be deductible where the claimant's spouse lives with the claimant at any time during the charge year.

Election to  
apportion  
married  
allowance

3. (1) The spouses entitled to a married allowance under paragraph 2 may, by notice in writing to the Commissioner, elect to apportion the married allowance for any charge year.

(2) The notice referred to in sub-paragraph (1) shall—

(a) be signed by both spouses;

(b) specify the proportion or amounts in which the married allowance is to be divided;

- (c) be irrevocable in respect of the charge year for which it is made;
- (d) be given to the Commissioner not later than six months before the commencement of the charge year to which it relates:

Provided that for the charge year ending the 31st March, 1983, such notice may be given on or before the 1st October, 1982.

(b) in paragraph 10—

- (i) by the repeal of sub-paragraph (a) and the substitution therefor of the following new sub-paragraph:

- (a) on income received by way of lump sum payments, other than those referred to in paragraph (c) of the definition of "lump sum payment" contained in section two, shall be calculated at the rate specified for such charge year, contained in Part I of Annexure "B" to this Schedule; and in the case of lump sum payments referred to in paragraph (c) of the definition of "lump sum payment" contained in section two, if the employee so elects, such amount shall be deemed to accrue at intervals of twelve months in three equal instalments commencing on the date on which the amount was first received, and each instalment shall be taxed in accordance with sub-paragraph (b);

- (ii) in the proviso to sub-paragraph (b), by the deletion—

- A. in sub-paragraph (i), of "two-fifths" and the substitution therefor of "one-third"; and

- B. in sub-paragraph (ii), of "twenty-five per centum" and the substitution therefor of "fifteen per centum"; and

- (iii) in the proviso to sub-paragraph (c), by the deletion—

- A. in sub-paragraph (i), of "two-fifths" and the substitution therefor of "one-third"; and

- B. in sub-paragraph (ii), of "twenty-five per centum" and the substitution therefor of "fifteen per centum";

- (c) in the proviso to paragraph 11 by the deletion—
- (i) in sub-paragraph (i) of “two-fifths” and the substitution therefor of “one-third”; and
  - (ii) in sub-paragraph (ii) of “twenty-five per centum” and the substitution therefor of “fifteen per centum”;
- (d) by the insertion in Annexure “A” of the following additional Table:

TABLE 8. *With effect from 1st April, 1982*

(a) Married allowance under paragraph 2	.. .. .	K1,700
(b) Single allowance under paragraph 4	.. .. .	K650
(c) Child allowance under paragraph 5	.. .. .	K275
(d) Insurance allowance under paragraph 6	.. .. .	The amount of premiums up to a maximum of K400
(e) Handicapped person's allowance under paragraph 8A	.. .. .	K500

- (e) by the insertion in Annexure “C” of the following additional Table:

TABLE 6. *With effect from 1st April, 1981*

*Rate per centum*  
45