

GOVERNMENT OF ZAMBIA

**ACT**

No. 4 of 2000

Date of Assent: 17 th March, 2000

An Act to amend the Income Tax Act

[ 22nd March, 2000

ENACTED by the Parliament of Zambia.

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2000, and shall be read as one with the Income Tax Act, in this Act referred to as the principal Act.

Enactment  
Short title  
and  
commence-  
ment  
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(2) Subject to subsection (3) this Act shall come into operation on the 1st April, 2000, and, subject to any provisions to the contrary, shall have effect in relation to the charge of tax for the charge year which ends on 31st March, 2001 and in relation to each subsequent charge year.

(3) Paragraph (c) of section two, sections seven, ten, twenty-four and paragraphs (b) (iii), (d) and (e) of section twenty-five shall be deemed to have come into operation on the 1st February, 2000, and subject to any provisions to the contrary shall have effect in relation to the assessments for the charge year which ends on 31st March, 2000 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 insertion in the appropriate places of the following new definitions:

"bank subsidiary" means a company where more than fifty per centum of the voting shares of the company (except any qualifying director's shares) are owned directly or indirectly by a bank;

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" financial institution " means a person that holds a financial institution's licence granted under section ten of the Banking and Financial Services Act;

" public entertainment fee " means a payment in any form other than an emolument to, on behalf of, or in respect of, any person or persons in partnership, including theatre, motion picture, radio or television artists, musicians, athletes or sports persons, in respect of those persons' personal activities in any entertainment, competition or similar activity within the Republic;

(b) by the deletion in the definition of " farming " of the words " and includes " and the substitution therefor of the words " but excludes ";

(c) by the deletion of the definition of " former Zambia Consolidated Copper Mining Company " and the substitution therefor of the following definition:

" former Zambia Consolidated Copper Mining Company " means any mining division or metal treatment operation of Zambia Consolidated Copper Mines Limited sold under the Privatisation Act; and

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(d) by the insertion in the definition of " non-traditional product " of the words " but excludes services " after the word " Republic ".

Amendment  
of section 4

3. Section four of the principal Act is amended—

(a) by the deletion of subsection (2); and

(b) by the deletion of subsection (3) and the substitution therefor of the following subsection:

(3) In this Act, a person other than an individual is resident in the Republic for any charge year if—

(a) the person is incorporated or formed under the laws of the Republic; or

(b) the management and control of the person's business or affairs are exercised in the Republic for that year.

4. Section *seven* of the principal Act is amended by the insertion after subsection (2) of the following new subsection: Amendment of section 7

(3) The Commissioner-General may appoint any local authority or other institution, to collect tax assessed under paragraph (i) of the proviso to paragraph (c) of section *sixty-four* on such terms and conditions as the Minister may by statutory instrument prescribe.

5. Section *eight* of the principal Act is amended in paragraph (d) of subsection (1) by the addition of the words " or its successor " after the word " court ". Amendment of section 8

6. Section *twenty-nine A* of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following subsection: Amendment of section 29A

(3) Where the accounts of a bank made up for the bank's accounting period ending in the charge year ending 31st March, 1999 recognise any foreign currency exchange gain or loss but that gain or loss is not realised within the meaning of subsection (1) in that charge year, then the amount of that gain or loss shall be deemed to be a gain or loss of the business carried on by the bank assessable or deductible, as the case may be, in the charge year ending 31st March, 2000.

7. Section *thirty* of the principal Act is amended in paragraph (i) of the proviso to subsection (2) by the insertion of the words " except in the case of Konkola Copper Mines Plc, ZCCM (SMELTERCO) LIMITED and ZCCM (MINECO) LIMITED where the loss shall not be carried forward beyond the twenty subsequent years after the charge year in which the loss was incurred " after the word " incurred ". Amendment of section 30

8. Section *thirty-six* of the principal Act is amended by the deletion of the words " in the same manner and order as a loss within section *thirty* ". Amendment of section 36

9. Section *forty-three A* of the principal Act is amended by the insertion after subsection (2) of the following new subsection: Amendment of section 43A

(3) Where a claim for a deduction is made under subsection (1) by a bank, bank subsidiary or financial institution, subsection (1) shall apply subject to the following

(a) the words " to the extent that the debts have been included in the income from that source " in that subsection shall not apply; and

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(b) the maximum deduction for any debt falling within the classifications set out by or under the Banking and Financial Services Act shall not exceed the minimum level of provisioning for such a debt required by the Bank of Zambia by or under the Banking and Financial Services Act.

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Amendment  
of section 44

10. Section *forty-four* of the principal Act is amended by—

(a) the deletion of the full stop at the end of paragraph (l) and the substitution therefor of a semi-colon and the word " and "; and

(b) the insertion after paragraph (l) of the following new paragraph:

(m) any copper price participation payments or any cobalt price participation payments:

Provided that a deduction shall be allowed to Konkola Copper Mines Plc in respect of any payments made pursuant to Cobalt Price Participation and Copper Price Participation Agreements between Konkola Copper Mines Plc and Zambia Consolidated Copper Mines Limited or its successors in title or assigns.

Amendment  
of section  
46A

11. Section *forty-six A* of the principal Act is amended in the proviso to subsection (1) by the deletion of the words " nine hundred and sixty thousand kwacha " and the substitution therefor of the words " one million two hundred thousand kwacha ".

Insertion of  
new section  
46B

12. The principal Act is amended by the insertion after section *forty-six A* of the following new section:

Estimated  
provisional  
tax returns

46B. (1) Where any person has, for any year, failed to submit a return or revised return under section *forty-six A* the Commissioner-General may—

(a) estimate such person's income chargeable to tax, in accordance with paragraph (a) of subsection (2) of section *forty-six A*; and

(b) compute the provisional liability to tax of that person on that estimated income in accordance with paragraph (b) of subsection (2) of section *forty-six A*; and shall serve notice on that person specifying the amount of income so estimated and the provisional tax liability so computed.

(2), Subject to subsections (1) and (3) of section *forty-six A* a notice served on any person under subsection (1) shall, for the purposes of this Act, be deemed to be a return of provisional income and tax made by that person, and a person is not relieved of any obligation to make any return of provisional income or tax or from any penalties for failure to make such a return under section *forty-six A*.

(3) Where a person who has been served with a notice under this section makes a return under section *forty-six A* which, apart from the date on which the return is made, complies with the requirements of that section, the notice under this section shall cease to have effect.

13. Section *sixty* of the principal Act is amended in subsection (1) by the deletion of the word " eighty ".

Amendment  
of section 60

14. Section *sixty-three* of the principal Act is amended in subsection (1)—

Amendment  
of section 63

(a) by the insertion in paragraph (iv) of the proviso of the words " interest, public entertainment fee, " before the word " royalties "; and

(b) by the deletion in paragraph (v) of the proviso of the words " an individual " and the substitution therefor of the words " a resident individual ".

15. Section *eighty-one A* of the principal Act is amended in subsection (1) by the deletion of the words " Annexure L of Part III of ".

Amendment  
of section  
81A

16. Section *eighty-two A* of the principal Act is amended—

Amendment  
of section  
82A

(a) in subsection (1), by the insertion immediately after paragraph (d) of the following new paragraph:

(e) a public entertainment fee to, or on behalf of, a person or persons in partnership not resident in the Republic; and

(b) by the insertion after subsection (8) of the following new subsection:

(9) Where a person fails to deduct or withhold tax as required by this section or by sections *eighty-one* and *eighty-one A*, that person shall be liable to pay to the Commissioner-General the amount of tax which has not been deducted or withheld.

Amendment  
of section 93

17. Section *ninety-three* of the principal Act is amended by the deletion of the words "three thousand kwacha" and the substitution therefor of the words "twenty thousand kwacha".

Amendment  
of section  
109

18. Section *one-hundred and nine* of the principal Act is amended—

(a) in subsection (1)—

(i) by the deletion of the word "chairman" and the substitution therefor of the word "chairperson".

(ii) by the deletion of the word "court" and the substitution therefor of the word "Tribunal"; and

(b) by the deletion of subsection (2).

Amendment  
of section  
110

19. Section *one hundred and ten* of the principal Act is amended—

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

(1) Upon the hearing of an appeal under the Revenue Appeals Tribunal Act, 1998, the Tribunal may make such order in relation to the assessment under appeal as is in accordance with this Act.

(b) by the deletion of subsection (2).

Amendment  
of section  
111.

20. Section *one hundred and eleven* of the principal Act is amended in subsection (1) by the deletion of the word "court" and the substitution therefor of the word "Tribunal".

Amendment  
of First  
Schedule

21. The First Schedule to the principal Act is amended by the deletion of clause (b) of sub-paragraph (1) of paragraph 5 and the substitution therefor of the following clause:

(b) in the case of implements, machinery or plant, such residue of the expenditure ranking for capital allowances incurred in respect of the implements, machinery or plant on which capital recovery has been made as remains after the deduction of wear and tear or other capital allowance or similar deduction whether allowed under this Act or under any provisions of the previous law for any charge year; but in no case shall the amount to be included in the income exceed the total of the deductions so allowed to that person in respect of those implements, machinery or plant.

22. The Second Schedule to the principal Act is amended by the insertion after paragraph 10 of the following new paragraph: Amendment  
of Second  
Schedule

11. This Schedule shall not apply to income comprising fees paid or payable in respect of the management of a pension fund of any class or description, including any approved fund, and such fees are not exempt from tax by virtue of this Schedule. Pension and  
management  
fees

23. The Third Schedule to the principal Act is amended— Amendment  
of Third  
Schedule

(a) in paragraph 1 by the insertion after sub-paragraph (2) of the following new sub-paragraph:

(3) For the purpose of this paragraph—

(a) a "reserve for unearned premiums" means a reserve calculated by reference to the net premium income:

Provided that a reserve for unearned premiums or for outstanding claims does not include an equalisation reserve, that is to say, an amount set aside out of past or current underwriting profits to meet future underwriting losses;

(b) the amount which may be deducted as a reserve for unearned premiums is the amount which would constitute that reserve if its amount were computed on the one twenty-fourth or more accurate basis where the one twenty-fourth figure is computed on the basis that contracts coming into force in a given month commence in the middle of that month and spread evenly in half monthly periods; and

(c) the amount which may be deducted as a reserve for outstanding claims shall not exceed such amount as is reasonable having regard to relevant historical or actuarial data and other factors, and shall not in any event exceed the amount of the reserve actually made.

(b) in sub-paragraph (1) of paragraph 1—

(i) by the insertion of the words "for a financial year of the company after the word "ascertained"

(ii) by the deletion of clause (b) and the substitution therefor of the following clause:

(b) adding any reserves for unearned premiums and outstanding claims made at the beginning of the financial year;

(iii) by the deletion of clause (c) and the substitution therefor of the following clause:

(c) deducting any such reserves made at the end of the financial year;

(c) in sub-paragraph (2) of paragraph 1—

(i) by the insertion of the words " for a financial year of the company after the word " ascertained ";

(ii) by the deletion of clause (b) and the substitution therefor of the following clause:

(b) adding any reserves for unearned premiums and outstanding claims made at the beginning of the financial year;

(iii) by the deletion of clause (c) and the substitution therefor of the following clause:

(c) deducting any such reserves made at the end of the financial year; and

(d) in paragraph 2—

(i) by the deletion of sub-paragraph (1) and the substitution therefor of the following sub-paragraph—

(1) The profits from the life insurance business of a resident insurance company for a financial year shall be the excess of the total investment income from that business for that year over the aggregate of—

(a) the amount disbursed during the year as expenses of management wholly and exclusively attributable to that business; and

(b) any amount allowable under Part II of the Fifth Schedule as a deduction in calculating business profits.



(ii) by the deletion of sub-paragraph (2), and the substitution therefor of the following new sub-paragraph:

(2) The profits from the life insurance business of a non-resident insurance company for a financial year shall be—

$$P = \left\{ \frac{A}{B} \right\} I - E$$

where—

P is the profits to be found;

A is the mean actuarial liabilities of the company for the year in question in respect of local life policies;

B is the mean of the company's total actuarial liabilities for the year in question;

I is the total investment income of the company for that year; and

E is the aggregate of—

(a) the amount disbursed by the company during that year as expenses of management wholly and exclusively attributable to the life insurance business of the company carried on in Zambia (including such proportion of the company's head office expenses as the Commissioner-General may determine); and

(b) any amount allowable under Part II of the Fifth Schedule as a deduction in calculating business profits.

(e) in sub-paragraph (3) of paragraph 2 by the deletion of the definition of "local taxed life policies" and the substitution therefor of the following definition:

"local life policy" has the meaning assigned to "life policy" by section two of the Insurance Act, 1997, and is a policy issued in accordance with section seventy-eight of that Act, in Zambia, by

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of 1997

a licensed insurer but does not include a policy which constitutes part of an approved fund (as defined in this Act) and an annuity policy under which an annuity is being paid.

Amendment  
of Fifth  
Schedule

24. The Fifth Schedule to the principal Act is amended in Part VI:

(a) in paragraph 22 by the insertion after sub-paragraph (6) of the following new sub-paragraph:

(7) Any division, unit or part of the former Zambia Consolidated Copper Mining Company Limited, shall be deemed a " 1975 new mine " for the purposes of this paragraph allowing the deduction of one hundred per cent of capital expenditure in the year in which the capital expenditure was incurred;

(b) in paragraph 23—

(i) by the deletion of the word " and " after item (i) of the proviso;

(ii) by the deletion of the full stop at the end of item (ii) of the proviso and the substitution thereof of a semi-colon and the word " and "; and

(iii) by the insertion after item (ii) of the proviso of the following new item:

(iii) any person owning more than one division, unit or part of the former Zambia Consolidated Copper Mining Company Limited shall be regarded as a single large scale mining and metal treatment operator for the purpose of ascertaining that person's allowable deductions under this paragraph.

Amendment  
of Charging  
Schedule

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

(a) in sub-paragraph (1) of paragraph 1 by—

(i) the deletion of the words " ninety-six thousand kwacha " and the substitution thereof of the words " one hundred and twenty thousand kwacha; and

(ii) by the deletion in clause (b) of the words " ninety-seven thousand two hundred kwacha " and the substitution thereof of the words " one hundred and twenty-one thousand two hundred kwacha ".

(b) in sub-paragraph (1) of paragraph 3—

(i) by the deletion of clause (d) and the substitution therefor of the following clause:

(d) on so much of the income of any bank as exceeds two hundred and fifty million kwacha, at the rate of forty-five per centum per annum.

(ii) by the deletion of the full stop at the end of clause (d) and the substitution therefor of a semi-colon; and

(iii) by the insertion after clause (d) of the following new clause:

(e) on the income of Konkola Copper Mines Plc, ZCCM (SMELTERCO) LIMITED and ZCCM (MINECO) LIMITED at the rate of twenty-five per centum per annum.

(c) in paragraph 5—

(i) by the deletion of the semi-colon and the word " and " at the end of sub-paragraph (c) and the substitution therefor of a colon; and

(ii) by the insertion at the end of sub-paragraph (c) of the following new proviso:

Provided that the foreign earnings of Sun International Limited, in relation to a Development Agreement executed on the 22nd September, 1999, shall be deemed as income originating from the export of non-traditional products; and

for the purposes of this sub-paragraph " foreign earnings " means the total income generated by Sun International Limited from non-Zambian residents through its operations and shall be calculated as a percentage of rooms revenue by non-Zambians compared to total rooms revenue in each year; the percentage reached shall then be applied to the total earnings by Sun International Limited, to compute foreign earnings.

(d) by the deletion of the full stop after sub-paragraph (c) of paragraph 6 and the addition of the following words to that paragraph:

except in the case of Konkola Copper Mines Plc, ZCCM (SMELTERCO) LIMITED and ZCCM (MINECO) LIMITED where the rate shall be zero per centum per annum on any dividend;

(e) by the deletion of semi-colon and the word " and " at the end of sub-paragraph (i) of the proviso to paragraph 7 and the addition of the following words to that paragraph:

except in the case of Konkola Copper Mines Plc, ZCCM (SMELTERCO) LIMITED and ZCCM (MINECO) LIMITED where the rate shall be provided under sub-paragraph (iii);

(f) by the deletion of sub-paragraph (ii) of the proviso to paragraph 7 and the substitution thereof of the following:

(ii) tax required to be deducted from any other payment of interest to an individual under section *eighty-two A* shall be deducted at the rate of twenty-five per centum per annum with effect from 1st April, 1999 and shall be the final tax; and

(g) by the insertion after sub-paragraph (ii) of the proviso to paragraph 7, of the following new sub-paragraph:

(iii) tax required to be deducted from any interest, royalties and management fees paid by Konkola Copper Mines Plc, ZCCM (SMELTERCO) LIMITED and ZCCM (MINECO) LIMITED to its shareholders or affiliates (as defined in the Development Agreement entered into between Konkola Copper Mines Plc and the Government of the Republic of Zambia), or any lender of money shall in each case be deducted at the rate of zero per centum per annum.