

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.

Enactment

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.

Short title  
and  
commencement  
Cap. 323

(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;

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

(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.

- 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.
- 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 ";
- Pension and  
management  
fees

(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

(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.