THE INCOME TAX (AMENDMENT) BILL, 2024

MEMORANDUM

The object of this Bill is to amend the Income Tax Act so as to—

(a) permit the deduction of the skills development levy as a tax deductible expense in advance of its payment to align with the accrual principles that apply for other deductions under the Act;

(b) extend advance tax on income at the rate of fifteen percent to remittances and exports above two thousand United States dollars or kwacha equivalent made through a commercial bank by an account holder without a valid tax clearance certificate;

(c) provide an exemption on withholding tax on royalties;

(d) increase the bands for presumptive taxes by twenty percent for motor vehicles used for the carriage of persons;

(e) increase the corporate income tax rates from fifteen percent to twenty percent for export of non-traditional products and value addition to copper cathodes;

(f) provide a waiver for a penalty arising from an underestimation of a provisional return;

(g) mandate a person or partnership declared to be an agent to remit withheld tax before the return is due;

(h) maintain the withholding tax rate on winnings from gaming, lotteries and betting at fifteen percent; and

(i) provide for matters connected with, or incidental to, the forgoing.

M. MUCHENDE,
Solicitor-General

N.A.B. 22, 2024
29th November, 2024

A BILL

ENTITLED

An Act to amend the Income Tax Act.

ENACTED by the Parliament of Zambia. Enactment

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 2024, 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) This Act shall come into operation on 1st January, 2025.

2. Section 2(1) of the principal Act is amended by the deletion of the—

Amendment of section 2

(a) definitions of "approved annuity contract" and "approved pension fund"; and

(b) definition of "approved fund" and the substitution therefor of the following:

"approved fund" means a pension scheme registered under the Pension Scheme Regulation Act;;

Cap. 255

(c) definition of "pensionable terms" and the substitution therefore of the following:

"pensionable terms" means terms and conditions of employment under which an employee belongs to an approved fund operated by an employer for the benefit of the employer's employees;; and (*d*) insertion of the following new definitions in the appropriate place in alphabetical order:

Act No. 41 of 2016

"private fund" means a private and authorised by the Securities and Exchange Commission under the Securities Act, 2016; and

Act No. 41 of 2016

"Securities and Exchange Commission" means the Securities and Exchange Commission established under the Securities Act, 2016.

Amendment of section 37

3. Section 37 of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

(1) A deduction shall be allowed in ascertaining the gains or profits of an employer for a charge year of any amount paid during the charge year by the employer by way of contribution to an approved fund.

Repeal and Replacement of Section 43E

4. The principal Act is amended by the repeal of section 43E and the substitution therefor of the following:

Deduction for skills development levy

Act No. 46 of 2016

43E. A deduction shall be allowed in ascertaining the gains or profits of a business of any levy payable or paid for a charge year in accordance with the provisions of the Skills Development Levy Act, 2016.

Amendment of section 45B

5. Section 45B of the principal Act is amended by the insertion in columns 1 and 2 of the following:

Column 1 *Institution*	*Column 2* *Type of Transaction*
Water utility companies	Account opening and holding
Mobile money operators	Account opening and holding
Mobile network operators and internet service providers	Account opening and holding
National Health Insurance Management Authority	Account opening and holding
National Pensions Scheme Authority	Account opening and holding
Professional bodies subscription and renewal	Membership registration,
Local Authorities	Registration of title deed

6. Section 46A of the principal Act is amended by the deletion of subsection (5) and the substitution therefor of the following: — Amendment of section 46A

(5) The Commissioner-General shall, where the Commissioner-General receives a return of income under section 46 and the Commissioner-General reasonably believes that the income is understated such that the tax on the return is underpaid by at least one third, impose on a person a penalty at the rate of twenty-five per cent of the tax which is underpaid, except that the Commissioner-General may remit the whole or part of the penalty.

7. The principal Act is amended by the repeal of section 81B and the substitution therefor of the following: — Repeal and replacement of section 81B

81B. (1) A person, institution or authority empowered by any written law to register— — Tax clearance certificate

(a) a transfer of property, shall register the transfer of property if the person or partnership transferring the property produces a tax clearance certificate; or

(b) the ownership of a motor vehicle, shall register the motor vehicle if the person applying for ownership of a motor vehicle produces a tax clearance certificate.

(2) A person, institution or authority empowered to issue—

(a) a trading licence under any written law shall issue the trading licence to an applicant if the applicant produces a tax clearance certificate; or

(b) an exploration licence, mining licence, mineral processing licence, gold panning certificate, mineral trading permit, mineral import permit or mineral export permit under the Mines and Minerals Development Act, 2015, shall issue the licence, certificate or permit to the applicant if the applicant produces a tax clearance certificate. — Act No. 11 of 2015

(3) A Government ministry, department or agency shall issue a permit or licence to a person or partnership if that person or partnership produces a tax clearance certificate.

(4) A person, partnership, institution, organisation or association shall transact with a supplier of goods or services if the supplier of goods or services produces a tax clearance certificate.

(5) Despite subsection (4), the Minister may prescribe a threshold for goods or services that may be supplied by a supplier of goods or services without a tax clearance certificate.

(6) A person, institution or authority empowered under any written law to regulate that person, institution or authority's members shall register or renew membership or issue a licence, practising certificate, permit or similar document if the applicant produces a tax clearance certificate.

(7) Despite subsection (6), a person, institution or authority shall not require a tax clearance certificate from an applicant who is—

(a) a student; or

(b) not carrying on business relating to that person, institution or authority; and

(8) Despite subsection (6), the Minister may, by statutory instrument, exempt a member regulated by a person, institution or authority referred to under subsection (6) from the requirement to produce a tax clearance certificate.

(9) The Commissioner-General may by notice, in writing, cancel a tax clearance certificate and the cancellation shall have effect from the date of service of the notice on the holder of the tax clearance certificate.

(10) The holder of a tax clearance certificate shall, within thirty days after the date of service of the notice of cancellation of the tax clearance certificate, return the tax clearance certificate to the Commissioner-General.

(11) In this section unless the context otherwise requires—

"property" has the meaning assigned to the word in the Property Transfer Tax Act; and

Cap. 340

"tax clearance certificate" means a certificate issued by the Commissioner-General, valid for such period as may be specified in the certificate, stating that the person or partnership to whom or to which the certificate is issued fulfilled all obligations imposed on that person or partnership by this Act and by any other Act for which the Commissioner-General is responsible or has made arrangements satisfactory to the Commissioner-General for issuing the certificate.

8. Section 81C of the principal Act is amended by the insertion of the following new subsection immediately after subsection (1): Amendment of section 81C

(1A) Subject to subsection (3), a person or partnership shall pay advance income tax, at the rate specified in the Charging Schedule, where that person or partnership, without a tax clearance certificate, is—

(a) exporting goods for commercial purposes at the port of entry; or

(b) remitting a transaction above two thousand United States dollars or kwacha equivalent through a commercial bank.

9. Section 82A of the principal Act is amended by the deletion of subsection (1E) and the substitution therefor of the following: Amendment of section 82A

(1E) The Commissioner-General may exempt a person or partnership from the provisions of subsection (1) *(a)*, *(b)*, *(c)*, or *(d)* and shall, in writing, notify the person or partnership of the exemption for the period specified in the notice, except that subsection (1) *(b)*, shall only apply to interest arising from a property linked unit of a property loan stock company, and royalties.

10. Section 84 of the principal Act is amended by the— Amendment of section 84

(a) insertion of the following new subsections immediately after subsection (5):

(6) A person or partnership declared to be an agent under subsection (1) shall, where that person or partnership withholds tax, remit the tax not later than two days before the due date specified for the respective category of tax under this Act.

(7) A person or partnership declared to be an agent who does not remit the tax in the period specified under subsection (7) shall be liable to pay a penalty of one percent of the amount, in respect of each month or part of the month for which the contravention continues during which that amount or any part is due; and

(b) renumbering of subsection (6) as subsection (8).

11. Paragraph 5(1) of the Second Schedule to the principal Act is amended by the deletion of item (l) and the substitution therefor of the following: Amendment of Second Schedule

(l) approved collective investment scheme and private fund to the extent to which the income is distributed to participants in the collective investment scheme and private fund, respectively;.

Amendment of Ninth Schedule

12. The Ninth Schedule to the principal Act is amended by—

(a) the deletion of Part I and the substitution therefor of the following:

PART I

TAX ON MOTOR VEHICLES FOR THE CARRIAGE OF PERSONS

Type of vehicle (sitting capacity)	*Amount of tax per vehicle (per annum)*
64 seater and above	K15,552.00
50 - 63 seater	K12,960.00
36 - 49 seater	K10,368.00
22 - 35 seater	K 7,776.00
18 - 21 seater	K 5,184.00
12 - 17 seater	K 2,592.00
Below 12 seater (including taxis)	K 1,296.00

(b) the deletion of Part III and the substitution therefor of the following:

PART III

TAX ON BETTING AND GAMING

	Type of Game	*Monthly Tax Rate or Monthly Tax Amount*
1.	Online Casino Live Games	20 percent of gross takings
2.	Online Casino Machine Games	35 percent of gross takings
3.	Casino Games (Brick and Mortar)	K5,000 per table
4.	Online Lottery Winnings	35 percent of net proceeds
5.	Lottery Winnings (Brick and Mortar)	15 percent of net proceeds
6.	Online Betting	25 percent of gross takings
7.	Betting	15 percent of gross takings
8.	Gaming Machines	K500 per machine

NOTES:

1. "Net proceeds" means the gross proceeds less sums paid out for the prizes.
2. "Gross takings" means the total amount staked by players less the winnings payable and redemptions.

13. The Charging Schedule to the principal Act is amended— Amendment of Charging Schedule

(a) in paragraph 5, by the deletion of item—

(i) *(c)* and the substitution therefor of the following:

(c) the maximum rate of tax on income the Commissioner-General determines as originating from the export of non-traditional products is twenty percent, except that where the Commissioner-General determines income as originating from the export of non-traditional products from farming or agro-processing, the maximum rate of tax on that income is ten percent;;

(ii) *(f)* and the substitution therefor of the following:

(f) the maximum rate of tax on income received by a company, from the manufacture of products made out of copper cathodes, is twenty percent per annum;; and

(iii) *(l)* and the substitution therefor of the following:

(l) the maximum rate of tax charged on the income received by a special purpose vehicle undertaking a public-private partnership project under the Public-Private Partnership Act, 2023 shall be fifteen percent from the first year that a public-private partnership project makes profit for a period of five years; Act No. 18 of 2023

(b) in paragraph 6, by the deletion of sub-paragraph (2) and the substitution therefor of the following:

(2) The tax required to be paid under section 81C shall be at the rate of fifteen percent of the value for any—

(a) import or export for duty purposes of the goods; and

(b) remittance.; and

(c) in paragraph 7, by the deletion of item (viii) and the substitution therefor of the following:

(viii) tax required to be deducted from the payment of winnings from gaming, lotteries and betting shall be at the rate of fifteen percent;.