

Zambian Government issues 2021 Budget

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Executive summary

On 25 September 2020, the Zambian Minister of Finance unveiled the 2021 budget to the National Assembly with the theme to "Stimulate Economic Recovery and Build Resilience to Safeguard Livelihoods and Protect the Vulnerable." In his address, the Minister noted that the COVID-19 pandemic has not only been a health crisis but has also adversely impacted the economy. Therefore, proposed health, fiscal and monetary policy measures were being implemented to mitigate these effects.

The 2021 budget proposes changes to the following tax legislation:

- ▶ *Income Tax Act*
- ▶ *Personal Income Tax - Pay-As-You-Earn*
- ▶ *Transfer Pricing*
- ▶ *Withholding Tax*
- ▶ *Property Transfer Tax Act*
- ▶ *Value Added Tax Act*
- ▶ *Customs and Excise Duty Act*

Detailed discussion

The budget targets key economic sectors including Tourism and Agriculture. It aims at stimulating economic recovery through practical and tangible support to businesses. It also enhances the social protection response programs to prevent increasing levels of poverty despite constrained fiscal conditions.

The key proposals are summarized below.

Business Tax

Corporate Income Tax

Proposed change: Reduction of the Corporate Income Tax rate to 15% from 35% on income earned by hotels and lodges on accommodation and food services.

The tourism industry has been the hardest hit by the COVID-19 pandemic. This amendment is intended to support the industry and help it recover.

Proposed change: Amendment of Part III of the Ninth schedule of the *Income Tax Act* (ITA) by increasing the presumptive tax on a person carrying on the business of betting and gaming from 10% to 25% of the gross revenue.

The proposal is an indication of the continued bid to regulate the growing betting and gaming industry in Zambia.

Proposed change: A Local Content Allowance has been proposed at the rate of 2% to encourage value addition to products such as mangoes, pineapples and cassava.

The allowance is aimed at encouraging the demand for locally produced fruit and also bridging the gap of low supply due to reduced imports caused by the COVID-19 pandemic.

Proposed change: Insertion of a subsection in the appropriate place in Section 29 of the ITA to clarify that the rule limiting interest deductibility is applicable on aggregate interest expense.

Section 29 of the ITA provides for the limitation of the deductibility of interest on debts to 30% of the tax earnings before interest, taxes, depreciation and amortization (EBITDA). This amendment seeks to clarify that the limitation applies to interest arising from loans of both revenue and capital in nature.

Proposed change: Amendment of the ITA to clarify that the obligation to furnish information to the Commissioner General extends to information that might be held outside the Republic or by a person who is not a resident of the Republic.

Currently, Section 48 of the ITA requires taxpayers to furnish information as required by Commissioner-General. This amendment would grant the Commissioner extra-territorial jurisdiction in relation to information requests.

Proposed change: Amendment of Section 55(4) of the ITA to provide for the keeping of all books of accounts in Zambian Kwacha (ZMW) and to provide exemptions for certain mining companies. Also, amendment of Section 55 (3) to extend the keeping of books of accounts in United States Dollars (US\$) to mining companies whose foreign exchange earnings are from within Zambia.

Section 55(4) was intended to prohibit taxpayers other than mining companies from maintaining accounting records in foreign currency. Currently, the wording of this amendment does leave open the position that there is no actual prohibition.

Section 55 (3) provides the exemption to the provisions of Section 55(4) and allows persons carrying out mining operations to keep books of account in US\$ if they derive not less than 75% of gross income from exports in foreign currency. The exemption is extended to mining companies who have foreign currency earnings from domestic sales.

Proposed change: Reduction in the investment threshold for a Zambian citizen to qualify for tax incentives under the *Zambia Development Agency Act No.11 of 2006*.

The *Zambia Development Agency Act* currently provides a threshold of US\$500,000 for an investor to qualify for incentives, irrespective of whether or not the investor is a Zambian citizen. The proposed amendment is the reduction of the threshold for Zambian citizens to US\$100,000 and will thus encourage the merging of local investors in the market.

Proposed change: Amendment of Section 34A (2) of the ITA to increase the period in which development allowances are to be claimed.

Currently, Section 34A (1) provides for an allowance of 10% per annum for expenditure incurred on the growing of rose flowers, tea, coffee and citrus fruit trees, among others. The allowance was claimable within three years. The period of claim has now been extended to five years.

Proposed change: Amendment of Section 43D of the ITA to increase the amount for deduction by the employer for employing a person with disability from ZMW1,000 to ZMW2,000 per annum. This serves as an incentive for employers to encourage the employment of disabled persons.

Withholding Tax

Proposed change: Amendment of the ITA to allow for the charging of withholding tax (WHT) on payments made by a Zambian resident to a nonresident in respect of royalty financing payments.

Personal Tax

Pay-As-You-Earn (PAYE)

Proposed change: A revision of the PAYE tax bands has been proposed as follows:

Current regime		Proposed regime	
Income band	Tax rate	Income band	Tax rate
0 - ZMW3,300 per month	0%	0 - ZMW4,000 per month	0%
ZMW3,301 - ZMW4,100 per month	25%	ZMW4,001 - ZMW4,800 per month	25%
ZMW4,101 - ZMW6,200 per month	30%	ZMW4,801 - ZMW6,900 per month	30%
Above ZMW6,200	37.50%	Above ZMW6,900	37.50%

Proposed change: An increase in the tax credit for disabled individuals from ZMW250 to ZMW500.

Disabled people have been provided with an increase in the tax credit.

International Tax

Proposed change: Amendment of the Transfer Pricing Regulations to provide for the exchange of Country-by-Country Reporting (CbCR) There is still no requirement to prepare CbCR.

Proposed change: Amendment of the Transfer Pricing Regulations to increase the threshold to ZMW50 million from ZMW20 million for local companies which are not required to provide transfer pricing documentation.

The current Transfer Pricing legislation and regulations require that local taxpayers that have annual turnover of ZMW20 million and above to prepare local transfer pricing documentation contemporaneously. This amendment seeks to extend this exemption to medium-sized businesses having an annual turnover of ZMW50 million and are not multinational enterprises, from providing transfer pricing documentation. However, it is not clear whether this exemption will apply to other transfer pricing matters such as transfer pricing audits.

Proposed change: Amendment of Section 97A (1) of the ITA to redefine "reference price" by the deletion of the words "Metal Bulletin" and replacement with the words "FastMarkets MB" wherever it appears and insertion of the terms "or its successor or successor name" in the appropriate places.

This is a change in terminology following the rebranding of Metal Bulletin to FastMarkets MB.

Property Transfer Tax

Proposed change: Amendment of Section 5(2A) of the *Property Transfer Tax (PTT) Act* to redefine the means of determining the realized value on the indirect transfer of shares. This is in order to capture only the Zambia proportion of the value of the consideration or the nominal value.

Proposed change: The Amendment of the PTT Act to clarify that only Trusts that are approved as Public Benefit Organizations (PBO) are exempt from PPT.

This functions to align the PTT Act with the provisions of the ITA on exemptions.

Proposed change: Amendment of the PTT Act to prescribe the exchange rate applicable to foreign currency denominated transactions.

Proposed change: Amendment of the PTT Act to restrict the application of the PPT, in the case of indirect transfers of shares, to the foreign transfer of shares that represents at least 10% of the value of shares in the Zambian company.

This amendment would entail that PTT on the direct transfer of shares is imposed based on an expanded definition of shares introduced in the 2017 PTT Amendment Act. The 10% threshold established for defining “a share” only serves to identify the potential target for PTT. However, there has been no clarity on the actual threshold of the transaction at which point PTT on indirect transfer of shares would apply.

Indirect Tax

Value Added Tax (VAT)

Proposed change: Zero rate of all tractors regardless of Horsepower.

In the current regulations, only tractors with a horsepower of 90 and less were VAT zero rated.

Proposed change: Amendment of Section 19 (1A) of the VAT Act to clarify that an electronic payment machine must be available to use on request by customers and in turn impose a penalty for failure to comply.

The *2019 VAT Amendment Act* introduced the requirement for suppliers to have an electronic payment machine at the point of sale. This, however, did not oblige the supplier to use the machine for its transactions.

Proposed change: Section 21 (6) of the VAT Act has been amended to clarify on when the two-year limitation period commences.

Section 21(6) has been challenging for taxpayers as establishing the period beyond which the Commissioner-general can assess a return for incorrectness or inadequacy has been considered subjective.

Proposed change: Amendment to Zero rate full body sanitization equipment.

As part of its initial response to the pandemic in the first quarter of 2020, the Government increased the number of zero-rated medical-related items such as alcohol solution and hand sanitizers. The proposed measure extends the VAT zero-rating to full body sanitization equipment and is set to come into effect 26 September 2020.

Proposed change: Amendment of Section 11(C) of the VAT Act to provide clarity for the definition of “place of supply.”

The amendment provides clarity on the definition of place of supply. The current regulations give full power to the Commissioner-General to determine the place of supply where the place of supply is uncertain.

Proposed change: Amendment of the VAT Act to provide for an escalatory fine chargeable on false returns and statements

This measure aims at increasing the fine payable for false declarations on returns or other declarations.

Proposed change: Amendment of Section 44 (2) of the VAT Act to increase the fine chargeable for evasion of tax.

The Government proposes to amend section 44(2) of the VAT Act to increase the penalty for tax evasion in respect of the supply and importation of goods and services from 30 000 to 300, 000 penalty units (ZMW 9.000 to ZMW90,000).

Customs and Excise Tax

Proposed change: Increase in customs duty to 40% from 25% on the following agro products; beef and beef processed products, pork and pork processed products, chicken and chicken processed products and fish.

The measure intends to encourage local production and promote growth in the livestock industry.

Proposed change: Reduction of customs duty to 15% from 30% on electric motor vehicles of Harmonized Schedule (HS) 8703.80.90. The measure aims at encouraging the use of electric motor vehicles and reduce the use of fossil fuel.

Proposed change: Amendment of Section 2 of the *Customs and Excise Act* to exclude high value motor vehicles from the definition of used motor vehicles and subject such vehicles to ad valorem customs duty. In addition to this, the Introduction of a definition for High value motor vehicles in Section 2 of the Customs and Excise Act.

The measure seeks to provide a definition of High Value motor vehicles in the Customs and Excise Act as well as to increase revenue collection and ensure that correct taxes are collected on all high value motor vehicles.

Proposed change: Suspension of customs duty on biological control agents of HS code 0106.49.00.

This measure intends to provide relief to the agricultural sector and promote non-traditional exports.

Proposed change: Introduction of excise duty at the rate of ZMW1.50 per liter on reconstituted milk and harmonize the customs duty rate at 15% for powdered milk.

The proposed change intends to revamp the local dairy sector.

Proposed change: Suspend customs duty on Greenhouse plastics of HS code heading 3921.

The measure intends to provide relief and increase productivity in the horticulture and floriculture subsectors.

Proposed change: Removal of 10% export duty on crocodile skins.

The measure intends to promote nontraditional exports and revamp the crocodile subsector.

Proposed change: Suspension of 5% customs duty on copper ores and concentrates.

The measure intends to promote local processing of copper ores and concentrates.

Proposed change: Suspension of 15% customs duty on tourist buses and coaches and safari game viewing vehicles for a specified period of one-year effective 1 January 2021.

Proposed change: Reduction of customs duty to 5% from 25% on selected trimmings and garments.

The measure will revamp and provide relief for the garments and textile industry.

Proposed change: Amendment Section 141 of the *Customs and Excise Act* to extend penalties for false invoices, false representation and forgery to service providers.

The measure intends to promote compliance by imposing penalties on individuals providing false information to the Revenue Authority.

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