

Tanzania issues *Finance Act, 2017*

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Executive summary

On 8 June 2017, Tanzania's Minister for Finance and Planning presented the 2017/18 budget. The related Finance Bill, 2017 was made publicly available on 13 June 2017. Following parliamentary approval, the Act received Presidential assent on 30 June 2017 and became effective on 1 July 2017.

This Alert is based on the *Finance Act, 2017* which includes numerous amendments of tax and other laws not mentioned in the budget speech.

The key tax amendments under the *Finance Act, 2017* include but not limited to:

- ▶ Zero-rating of Value-Added Tax (VAT) on the supply of ancillary transport services of goods in transit; and exemption from VAT of importation of an ambulance by a registered health facility other than a pharmacy, health laboratory or diagnostic center
- ▶ Exemption for registered education institutions from the Skills Development Levy (SDL)
- ▶ Changes affecting mining sector as a 1% inspection fee on export of minerals will come into effect on the date to be specified by the Minister
- ▶ Imposition of a 5% withholding tax (WHT) on payments relating to specified minerals supplied by a resident person

- ▶ Application for refund of overpaid tax to be made within three years from the date of payment of the overpaid tax amount
- ▶ Objection or appeal not to bar interest for late payment of taxes

Detailed discussion

Income Tax Act (ITA), 2004

The following amendments have been made:

- ▶ Amendment of the term “business” as contained under Section 3 of the Act by deleting the phrase “and any activity that, having regard to its nature and the principal occupation of its owners or underlying owners, is not carried on with a view to deriving profits.” This appears to target charitable organizations which may in some circumstances be deemed as conducting taxable business in Tanzania.
- ▶ Amendment of Section 11(4), which provides for the list of “excluded (non-deductible) expenditure” to include withholding tax incurred by a withholder. Therefore, this shall not qualify as a deductible expense for the purpose of calculating the corporate income tax of the withholder.
- ▶ Amendment of Section 19 (losses from a business or investment) by ring fencing losses from speculative transaction (i.e., unrelieved loss shall be offset only against income from speculative transaction). Speculative transaction has been defined to mean “a transaction which is a contract for sale or purchase of a commodity including stocks and shares settled otherwise than actual delivery or transfer of the commodity or any agreement for repurchase or resale, forward sale or purchase, futures contract, option or swap contract.”
- ▶ Imposition of WHT on payments relating to specified minerals or minerals supplied by a resident person at the rate of 5%; the WHT by a resident person shall be the final withholding payment.
- ▶ Premiums for general insurance/reinsurance paid to, and proceeds from general insurance or re-insurance paid by a resident person in respect of the insurance or reinsurance of any risk in or outside the Tanzania now have their source in Tanzania.
- ▶ Exclusion of income tax by way of a single installment of 5% on payments relating to horticulture products carried by a foreign aircraft operated or chartered by a nonresident person who has no permanent establishment in Tanzania.
- ▶ Certified Financial Statements must be attached when filing a corporate tax return of income.
- ▶ Newly listed companies with the Dar es Salaam (DSE) with at least 30% of their equity ownership issued to the public to be taxed at a reduced corporate tax rate of 25% for three consecutive years from the date of listing.
- ▶ A corporation with a newly established plant for assembling motor vehicles, tractors, fishing boats or out boats engine and having a performance agreement with the Government of Tanzania shall be taxed at a reduced corporate tax rate of 10% for five consecutive years from the year of commencement of production.
- ▶ Alternative Minimum Tax at the rate of 0.3% to be imposed on the turnover of the third year of an entity with tax losses or utilizing carried forward losses for three consecutive years (correction made to Schedule to align with the charging section).
- ▶ Depreciable tax base for a non-commercial vehicle is increased from TZS15 Million to TZS30 Million.

Value Added Tax Act (VAT), 2014

- ▶ Zero rating of a supply of ancillary transport services for goods in transit through Mainland Tanzania where the service is an integral part of the international transport service and in respect of goods stored at the port, airport or a declared customs area for not more than 30 days while awaiting onward transport.
- ▶ VAT returns must be filed on the first working day following the 20th day, if the return date falls on a Saturday, Sunday or public holiday.
- ▶ A decreasing adjustment shall be allowed to a supplier where all or part of consideration payable on a taxable supply has been overdue for more than 18 months and the supplier has written off the unpaid amount as a bad debt.
- ▶ The following items/products are exempt:
 - Tobacco, not stemmed or stripped
 - Preparations of a kind used in animal feeding
 - Fertilized eggs for incubation
 - A motor vehicle specifically designed for use by persons with disability
 - Importation of an ambulance by a registered health facility other than a pharmacy, health laboratory or diagnostic center

The Tax Administration Act, 2015

- ▶ Remission of interest now vested to the Commissioner General for the Tanzania Revenue Authority instead of the Minister of Finance. The Commissioner may, on good cause, remit the whole or part interest or penalty imposed under any tax law, except that in the case of interest, the remission shall not exceed 50% of the total interest amount.
- ▶ An application for the refund of overpaid tax shall be made within three years from the date of payment of the overpaid tax amount. Previously, there was no time limit on which a taxpayer could apply for a refund of excess tax paid, save for VAT, which is six months.
- ▶ Interest imposed for late payment of tax shall not be affected or waived for the reason of delay due to court proceedings or any other dispute resolution process.
- ▶ Small scale vendors and service providers (e.g., hawkers, caterers, and event managers) are now required to be registered and issued with an identity card by Commissioner General.

Excise Duty

- ▶ Amendment of the Fourth schedule by introducing new rates in respect of excisable items. Such items includes fruit and vegetable juices, water i.e., mineral water, aerated water, beer made from malt, wines of fresh grapes and other fermented beverages plus cigarettes.

Railways Act

- ▶ Amendment of Section 20A by exempting kerosene type jet fuel (Jet A-1) from the Railway Development Levy.

Mining Act (Cap. 123)

- ▶ Amendment of the sections in the Act by restricting exportation or domestic use of minerals unless the same has been inspected/cleared at the mining areas, ports, airports, border or posts and the clearing fee of 1% of the gross value of the minerals has been paid by the exporter/ a person in possession thereof.

Changes made in other laws

- ▶ *Vocational Training and Education Act (VETA)*-exemption for registered education institutions (nursery, primary and secondary schools; vocational educational and training schools; and universities and higher learning institutions are now exempted from the SDL.
- ▶ *The Urban Authorities (Rating) Act* is amended as follows:
 - Imposition of property tax on all houses within a city council, municipal council or town council which are in actual occupation including all improvements on, in and under such houses but excluding mud huts, thatched houses, and mud houses
 - Imposition of property tax on buildings not valued under the Act at a rate of TZS10,000 for ordinary buildings and TZS50,000 for each story in a multi-story building.

The *Finance Act, 2017* is in force as of 1 July 2017.

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