

Finance Act Highlight 2016 - Tanzania



Our Budget newsletter of 30 June 2016 is based on the published final Finance Act of 2016.

Objective

The objective of this newsletter is to provide guidance on the application of the new introductions and amendments as per the Finance Act 2016 which will assist in compliance of tax laws and legislations in force.

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Summary of Finance Act

Banking and financial institutions act, (Cap.342)

The annual report about operation of Deposit Insurance Board (DIB) shall be now be submitted to Minister within six months.

The companies act (cap. 212)

Section 458 is amended to allow the registrar to supply any information as may be requested by the commissioner general of Tanzania Revenue Authority for the purposes of carrying out the provisions of any tax law.

The electronic and postal communication act (cap.306)



S.26 of the Act on requirement of the shareholders has been fully deleted and substituted with new clauses such as: S. 26(1) (a).

In the case of Network Facility License, Network Service License, Application Service license, Subscription Content Service License, Support Services for Subscription Content Service License or Postal services License.

Previously: Submit a list of shareholders local, foreign or both with the respective percentages.

Amended: In case of Network Facilities License, Network Service or Application Service Licensee – have a minimum shareholding of 25% of its authorized share capital which shall be obtained through a public offer in accordance with CMSA Act. If licensed before 1st July 2016 – shall offer shares to the public within 6 months. If licensed from 1st July 2016 - shall offer shares to the public within 2 years from the date of the grant of the license.

The Purpose: To mandate local investors who own shares in mobile phone firms to float their stakes on the DSE within six months from the day the finance Act is approved.

The income tax act (cap. 332)

Extraction Industry



There are significant amendments done for determination of taxable income of a mining company including petroleum operation as follows:

- the Income Tax Act, 1973 is no longer used to determine the taxable income of a person from mining operation
- petroleum rights is a non-depreciable asset various new definitions relating to mining and petroleum operations have been added under section 3 of the principle act, including definition for decommissioning fund,

development area, development license, development operations, downstream

- activities, exploration area, exploration license, exploration operations, farm-out arrangement, license area, midstream activities, mineral, mineral rights, mining, mining license, mining operations, National Oil Company, petroleum, petroleum operations, petroleum right, production operations, Production Sharing Agreement, prospecting, prospecting, rehabilitation, rehabilitation fund, rehabilitation bond, retention license, separate mining operation, separate petroleum operation, special mining license, technical service and upstream activities
- expenditure of capital nature is no longer including expenditures incurred in respect of natural resource prospecting, exploration and development
- expenditures incurred or provision for expenditure in connection with remedying any damage caused by natural resource extraction operations to the surface of or environment on land is no longer allowable deduction
- tax rate for income of a person from mining operation and petroleum operation is 30%.

In calculating a person's total income from mining operations:

- all mineral operations conducted by a person shall be treated as business activities save as arrangement referred to under section 65H of the Finance Act 2016
- each separate mining operation shall be treated as an independent business and the person must prepare accounts for that business separate from any other activity of the person and
- the person shall calculate chargeable income and income tax liability for the business independently for each year of income. Each mineral right shall constitute a separate mining operation.

The following shall be included in calculating a person's income from a separate mining operation for a year of income:

- (a) incomings derived from the disposal of minerals produced from the license area
- (b) amounts received in respect of the sale of data or information pertaining to the operations or mineral reserves
- (c) amounts required to be included under paragraph 5 of the Third Schedule including from the assignment or other disposal of an interest in the mineral right with respect to which the operation is conducted after commencement of production; and amounts required to be included under section 65I in respect of (a)
- (d) surplus in a rehabilitation fund
- (e) any other amounts required to be included under other provisions of the Act

The following shall be deducted when calculating a person's income from a separate mining operation:

- (a) annual charges and royalties incurred by the person under the mining act or mining development agreements with respect to the mineral rights
- (b) depreciation allowances granted with respect to the mining operation and calculated in accordance with paragraph 5 of the third schedule;
- (c) contributions to and other expenses incurred in respect of a rehabilitation fund for the operation as required by the law or approved under mining development agreements by the minister responsible for mining; and
- (d) expenses incurred in respect of acquisition of rehabilitation bond
- (e) any other amounts deductible under other provisions of this act

No deductions shall be allowed for the following in calculating income from a separate mineral operation:

- expenditures incurred or provision for expenditure in connection with remedying

any damage caused by natural resource extraction operations to the surface of or environment on land is no longer allowable deduction

- gifts to public and charitable institutions
- depreciation allowances for depreciable assets for an unrelieved loss under section 19, except:
 - losses from the separate mineral operations only in calculating future income from that operation and not income from any other activity whether a mining operation under a different mineral right, processing, smelting, refining or a non-mineral activity
 - income from the separate mining operations may not be reduced by a loss from any other activity whether a mining operation under a different mineral rights, processing, smelting, refining or a non-mineral activity
 - income from the separate mining operation for any year of income may be reduced by reason of the use of unrelieved losses from that operation subject to other limitations imposed by section 19 but not below 30 per centum of that income before any reduction for losses
- for a bonus payment for the grant, transfer or assignment of a mineral rights, whether in form of a lump sum or dependent on or calculated by reference to specific production targets, are not deductible in calculating income from a separate mining operation or
- for expenses incurred by the person in implementing an approved mine closure fund in excess of the amount contributed to the approved rehabilitation fund.

Amount Exempt from Tax:

- rehabilitation fund
- amounts paid from a rehabilitation fund to meet expenses of activities authorized by an approved mine closure plan for which the fund was established
- All Processing, Smelting and Refining

Amounts to be included.

- a licensee conducting processing, smelting or refining with respect to minerals shall be subject to income tax with respect to the activities as provided by this Act, and as modified by this subdivision to the extent that there is no modification, the standard rules in this Act shall apply.

Amounts to be deducted:

- amounts deposited in respect of a rehabilitation fund established for the license.

The following deduction shall not be allowed

Expenditures incurred or provision for expenditure in connection with remedying any damage caused by natural resource extraction operations to the surface of or

- environment on land is no longer allowable deduction
- gifts to public and charitable institutions
- depreciation allowances for depreciable assets
- expenses incurred by the person in implementing the rehabilitation plan for the operation in excess of deposits in the rehabilitation fund
- for an unrelieved loss under section 19, except as permitted by section 65F
- unrelieved losses of a licensee arising from conducting a business that includes processing, smelting or refining may be deducted but not below 30 per centum of total income before any deduction for such an unrelieved loss.

Petroleum Operations



In calculating person's total income from petroleum right all petroleum right conducted by a person shall be treated as business activities save as arrangement referred to under section 65Q of this Act

Each separate petroleum right shall be treated as an independent business and the person shall prepare accounts for that business separate from any other activity of the person

Chargeable income and income tax liability for the business shall be calculated independently for each year of income

Income from petroleum rights

- incomings derived from the disposal of petroleum obtained from the license area valued at the delivery point identified in the Production Sharing Agreement
- amounts received in respect of the sale of data or information pertaining to the operations or petroleum reserves
- amounts required being included under paragraph 5 of the Third Schedule including from the assignment or other disposal of an interest in the petroleum right with respect to which the operation is conducted after commencement of production
- any other amounts required to be included under other provisions of the Act.

Deductions for petroleum rights

- royalties and annual fees incurred by the person with respect to the petroleum right under sections 113 and 114 of the Petroleum Act
- depreciation allowances granted with respect to the operation and calculated in accordance with paragraph 6 of the Third Schedule
- amounts deposited in respect of the decommissioning fund for the petroleum operation
- together with any other amounts deductible under other provisions of this Act

No deduction allowed on the following

- expenditures incurred or provision for expenditure in connection with remedying any damage caused by natural resource extraction operations to the surface of or environment on land is no longer allowable deduction
- gifts to public and charitable institutions
- depreciation allowances for depreciable assets
- any bonus payment
- for an unrelieved loss under section 19, except as permitted by section 650.
- expenses incurred by the person in implementing the decommissioning plan for the operation in excess of deposits in the decommissioning fund.



Pay as you earn (p.a.y.e)

As per the Finance Act, there is a reduction of PAYE from 11% to 9% as stipulated under S.32 of the Finance Act 2016.

The total income of a resident individual for a year of income shall be taxed at the rate stipulated below per month.

TOTAL INCOME	RATE PAYABLE
Where the total income does not exceed 170,000/=	NIL
Where the total income exceeds 170,000/= but does not exceed Tsh.360,000/=	9% of the amount in excess of Tshs.170,000/=
Where the total income exceeds 360,000/= but does not exceed 540,000/=	Tshs.17,100/= plus 20% of the amount in excess of 360,000/=
Where the total income exceeds 540,000/= but does not exceed 720,000/=	Tshs.53,100 plus 25% of the amount in excess of 540,000/=
Where the total income exceeds 720,000/=	Tshs. 98,100 plus 30% of the amount in excess of 720,000/=

Withholding tax

Withholding tax shall now apply to:

- payments that are paid to an approved retirement fund



- payment made by a resident person to non-resident a service fee with a source in United Republic; or a service fee for provision

of a professional services

- single installment shall now apply on gain obtained in realization of petroleum or mineral rights at the rate of thirty per centum.

Classification of Depreciable Assets

The following are deleted:

- plant and machinery used in mining operations under class 2
- deleted class 4 and removed it from all paragraphs in the third schedule
- the whole of depreciation allowance expenditure incurred in respect of mineral or petroleum operations during a year of income is placed in a separate pool
- depreciation rate is 20%.

Capitalized expenditures for depreciation purposes

Expenditure other than financial costs incurred in respect of mineral operations wholly and exclusively on reconnaissance, appraisal and prospecting or exploration operations or in developing mineral or petroleum operations and infrastructure, including as may be prescribed by regulations.

The local government finance act, (cap. 290)

Tra to collect property rate

The tanzania revenue authority shall have the obligation to evaluate, assess, collect and account for property rate.

The vocational education and training act, (cap.82)

Skills and development levy (sdl) is now payable at the rat of "four point five per centum" instead of "five per centum".

The motor vehicles (tax on registration and transfer) act, (cap. 124)

1. Increase in Motor vehicle registration fee from TZS150,000 to TZS250,000 and motor cycle registration fee from TZS45,000 to TZS95,000.

2. Increase in personalized registration number fee from TZS5,000,000 to TZS10,000,000.

The excise (management and tariff) act (cap 147)

- Adjust for inflation with 5% increase of excise duty rates on non- petroleum products such as soft drinks, locally produced fruit juices, imported juices, beer made from local un-malted cereals, other beers, non-alcoholic beer, wines produced with domestic contents exceeding 17%, wine produced with more than 25% imported grapes, spirits, cigarettes without/with filter tip containing domestic tobacco, cut rag or cut filler, lubricating greases, natural gas and optical media (Recorded DVD, VCD, CD).
- Increased excise duty on imported furniture, from 15% to 20%.
- Abolish manufacturing, selling, buying and use of plastic bags of less than 50 microns.
- Extend excise duty of 10% on charges/fees payable by a person to telecommunication service provider on money transfer.

Tax administration act (cap. 438)

The Commissioner General shall publish in the *Gazette* predetermined minimum rental values if he find that lease agreement between landlords and tenants do not reflect authentic or actual transactional values.

Disclosure of information on contracted services:

Any entity engaged in the construction and extractive industry shall disclose to the Commissioner General the names of all persons contracted and sub- contracted in the course of performance of their duties or business or carrying out of any project.

Information to disclose:

Names of the persons and nature of the sub contracted works together with the duration of carrying out the works.

Fine for failure to comply with this provision: There shall be a fine not exceeding 25% of the quantum payable under the project or a fine of not exceeding 4000 currency points whichever is greater for any entity which fails to comply with the above provisions.

Objection to tax decision

The amount of tax which is not in dispute or one third of the assessed tax decision whichever amount is greater shall be paid within a period of thirty days from the date of service of tax decision, before filing any objection to any tax. (S. 51(5)).

Failure to comply with the above requirement, the assessed tax decision shall be confirmed as final tax assessment.

Offence for making or using false or misleading statement or documents: The offences mentioned under S. 84(1) now applies to any tax laws set out under the Part A of the First Schedule to the Tanzania Revenue Authority Act and not only on the excise duty.

Any person committing such offences and upon is liable for payment of twice of the amount of the tax evaded.

New offences (S. 84(1) (d – j))

- is in any way involved in any fraudulent evasion of the payment of any tax
- obtains any remission, rebate or refund of tax which he is not entitled to obtain;
- makes any false statement or false representation in order to obtain any remission, rebate, refund of tax or any tax benefit
- acquires possession of, keeps, conceals, removes or in any way deals with, any excisable goods or any taxable goods which have been manufactured or supplied without payment of the full tax
- counterfeits or in any way falsifies or uses when counterfeited or in any way falsified, any document required or issued by or used for the purpose of the tax
- omits or fails to make or cause to be

made any declaration, certificate, application, return, account, or other documents, which is true or correct in any material particular; or

- acquires, possess, keeps or conceals, or in any way deals with, any fiscal receipt or fiscal document which is false or incorrect in any material particular.

Offence for failing to use electronic fiscal device (S.86)

Fine for any offences relating to EFD have been increase from the range of 100 to 150 currency to a range of 200 to 300 currency points or to imprisonment for a term not exceeding three years or to both.

A further fine to a person involved in the above offences shall also be liable to a fine twice the amount of tax evaded or imprisonment for a term not exceeding three years.

Such offences includes the following:

- failure to acquire and use an electronic fiscal device upon commencement of business operations or expiry of the period specified by the Commissioner
- failure to issue fiscal receipt or fiscal invoice upon receiving payment for sale of goods or service
- issue of a fiscal receipt or fiscal invoice that is false or incorrect in any material particulars.
- use of electronic fiscal device in any manner that misleads the system or the Commissioner
- tempering with or causing electronic fiscal device to work improperly or in a manner that does not give a correct or true document.

Further offences:

- failure to demand or report a denial of issuance of a fiscal receipt or fiscal invoice upon payment for goods or service.
- such a person shall be liable to a fine not

less than 2 currency points and not more than 100 currency points or to imprisonment for a term not exceeding six months

- note that each currency point is TZS 15,000/=
- the obligation to pay tax is not affected by conviction or compound of an offence under this Act (S. 88A)
- general penalty (S. 88B)
- commitment of an offence which no specific penalty is provided will attract a fine of not less than 200 currency points and not more than 300 currency points or to imprisonment for a term not exceeding three years or to both
- furthermore, a person involved shall be liable to additional fine of twice the amount of tax evaded or imprisonment for a term not exceeding three years
- compound the offence (S. 92(1))
- the Commissioner General may compound offence committed under any tax law, and may order a person to pay the fine that would have been paid had such person been prosecuted and convicted for the offence or order forfeiture of any goods related to the offence or both
- THE VALUE ADDED TAX ACT (CAP.148)
- a new subsection has been added in section 5, VAT rate and amount payable where the supply is both exempt and taxable at standard rate, the supply shall be taxable at standard rate S9(c) replaced by value of import of goods shall include the amount of any tax, levy, fee or fiscal charge other than customs duty and VAT payable on the import VAT payable on the import of the goods
- the following items have been added as zero rated,
- supply of goods from mainland Tanzania to Zanzibar if the goods are manufactured in Tanzania mainland (S.55A)
- supply of services to a customer who is outside United Republic at the time of supply and effectively uses or enjoys the services outside the United Republic ((S.61A(1)(a))
- supply of service for which the service are

neither directly related to land situated in the United Republic nor physically performed on goods situated in the United Republic at the time of supply((S.61A(1)(b)).

Except the following:

- The supply is of a right or option to receive a subsequent supply of something else in the United Republic ((S.61A (2) (a)).

The services are supplied under an agreement with a non-resident but are rendered to a person in the United Republic who is not a registered person ((S.61A (2) (b)).

Other matters

The minister is given power to make regulation prescribing the manner value added tax for goods manufactured in Tanzania Zanzibar and brought in Mainland Tanzania by registered value added tax person be accounted.

Due Date for Submission of VAT Return
Submission date for VAT return have been changed from the last working day of the following month, as it was prescribed under section 66 of the VAT act to the 20th working day of the following month.

ADDED TO EXEMPT GOODS		
1.	Agricultural, horticultural or forestry machinery for soil preparation or cultivation except lawn mower or sports ground rollers and parts.	84.32
2.	Harvesting or threshing machinery except machines under HS Code 433.11.00, 8433.19.00, 8433.90.00	8433
3.	Unprocessed edible animal products	Chapter
4.	Unpasteurized or pasteurized cow milk except with additives and long life milk	4.01

ADDED TO EXEMPT GOODS		
5.	Unpasteurized or pasteurized goat milk except with additives and long life milk	4.01
6.	Unprocessed edible vegetables	Chapter 7
7.	Unprocessed cereals	11.04
8.	Wheat or meslin flour	10.01
9.	Maize flour	11.02
10.	Unprocessed tobacco	2401
11.	Unprocessed Cashew nuts	0801.22
12.	Unprocessed coffee	0901.11
13.	Unprocessed tea	0902.10
14.	Soya beans	12.01
15.	Ground nuts	12.02
16.	Sunflower seeds	12.06
17.	Oil Seeds	12.07
18.	Unprocessed pyrethrum	1211.90
19.	Unprocessed cotton	1207.21
20.	Unprocessed sisal	5303.10
21.	Unprocessed sugarcane	1212.93
22.	Seeds and plants thereof	12.09

REMOVED FROM EXEMPTIONS
Ploughs, harrows, scarifiers, cultivator, weeders and hoes
Disc harrows
Mower,
Seeders, planters and trans planters
Combine harvesters
Manure spreaders and fertilizer distributors
Unprocessed edible offal of cattle
Unprocessed edible meat of swine
Unprocessed edible meat of sheep
Unprocessed edible meat of goat
Unprocessed edible poultry
Unprocessed edible eggs
Unprocessed maize
Unprocessed wheat
Unprocessed cereals
Unprocessed meal
Unprocessed tobacco

REMOVED FROM EXEMPTIONS
Unprocessed cashew nuts
Unprocessed coffee
Unprocessed tea
Unprocessed cotton
Unprocessed sisal
Unprocessed sugarcane

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