

Tax Updates 2024

Highlights

This newsletter is an update on our bulletins on the Budget Speech and Finance Bill 2024 ("the Bill")¹. It summarises additional points arising from our review of the Finance Act 2024 ("the Act"), as released on 30 June 2024 (and made public on 1 July 2024). The amendments set out in the Act are effective from 1 July 2024 (unless specifically stated otherwise).

In Brief

Additional changes - items not in Finance Bill but in Finance Act:

- "Cargo consolidator" - compliance requirement and penalty for failure to comply
- 5% withholding tax on royalty to resident sports entities or Tanzania Football Federation (TFF)
- One third royalty in gold or gemstone for reserve
- Bank of Tanzania - requirement to transact in Tanzanian Shillings
- Industrial Development Levy (IDL) on Cement Clinkers and Portland Cement

Reversal of proposals - items in Finance Bill not reflected in Finance Act:

- Income Tax - Deduction of contributions to the Consolidated Fund by public institutions
- Withholding Tax - 5% final withholding tax on tour guiding services and 2% withholding tax on agricultural produces
- VAT - 30 days time limit for VAT refund payment
- Road and Fuels Toll - TZS 382 per kg fuel levy on Compressed Natural Gas (CNG) used in motor vehicles

Further revision - items in Finance Bill and amended in

Finance Act

- EFD offence - reduction of maximum fine
- Out of Court Settlement - timeline revised to 60 days
- Excise Duty Returns - revised due date of 25th day of following month.
- Mining - requirement to set aside minerals, limited to gold.

Income Tax

Digital content - expanded definition

The Act has expanded the definition of “digital content” which was provided in the Bill to include examples of electronic content qualifying as digital content.

“Digital content” is now defined as (we have highlighted the additions as compared to definition in the Bill) *“any electronic content that may be downloaded, streamed or accessed in any other manner, including e-books, magazines, news, journals, periodical, database, music, movie, software, mobile phone applications, images, text, sound effects, website, webinar, webcast, which is not simultaneously broadcasted over any conventional radio or television network in the United Republic”.*

Therefore, payments to creators of these digital contents will be subject to 5% withholding tax.

Digital asset - withholding obligation on resident and nonresident withholder

The Budget Speech announced the introduction of a 3% withholding tax obligation on digital asset platform owners in relation to payments to resident persons in respect of transfer of digital assets. Whilst the Budget Speech had stated that this withholding tax obligation would apply to both resident and nonresident digital platforms owners, the Bill limited this obligation to non-residents only. The Act has

extended the obligation to residents and therefore the provision applies to both residents and non-residents as proposed in the Budget Speech.

Agricultural produce - withholding obligation reversal

Although the Bill had proposed a 2% final withholding tax on payments for purchase of agricultural, livestock, forestry or fishery products on supplies made by a resident intermediary person, this is not reflected in the Act and so no withholding tax will be applicable on such payments.

This development mirrors past history. A similar change introduced in the Finance Act 2021 was subsequently repealed in October 2021 through the Written Laws Miscellaneous Amendments (No.6) of 2021.

Tour guiding services - reversal of proposed final withholding payment treatment

The Bill had proposed to include tour guiding service and related services like portering, chef services, or luggage carrying services under final withholding payments (subject to 5% resident withholding tax on professional services). The Act does not include this amendment.

Reduced resident royalty withholding tax rate (5%) on payment to resident sport entity or Tanzania Football Federation (TFF)

“Royalty” (as defined) broadly refers to payments related to intangible rights (for example, linked to intellectual property). Generally, a withholding tax of 15% applies on royalty payments (whether paid to residents or non-residents), but with a lower rate of 10% (since July 2022) on the use of a cinematography film, videotape, sound recording or any other medium. A further lower rate of 5% is introduced for any royalty

payment to a resident sports entity or the TFF.

Contributions to the Consolidated Fund by public institutions - reversal of proposed deduction

The Bill had proposed to treat as deductible expenditure the contributions made by executive agencies, public authority or public institutions to the Consolidated Fund. The Act does not include this amendment.

“Digital content” is now defined as any electronic content that may be downloaded, streamed or accessed in any other manner... which is not simultaneously broadcasted over any conventional radio or television network in the United Republic”.

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**Excise duty
New filing deadline - 25th day of following month**

The due date to file excise duty returns is changed to the 25th day of the month following the month to which the return relates (from the last working day of the following month).

**Excise duty on raw materials
- offset extended to wine manufacturers**

The Bill proposed a change to enable licensed manufacturers to offset excise duty paid on imported or locally manufactured undenatured ethyl alcohol² against excise duty payable on the finished alcoholic products like spirits, liqueurs and other spirituous beverages under heading 22083. The Act extends this credit arrangement to manufacturers

of finished wine of fresh grapes⁴.

Reversal of proposed excise duty on betting, gaming, and national lottery stake

The Act does not include the proposed excise duty at 10% on the value of stake on betting, gaming and national lottery.

Industrial Development

Levy (imposed under Import Control Act)

IDL changes on imported beer and cement products

The Act reduces Industrial Development Levy (IDL) on beer made from malt to 5% (from 10%) and imposes IDL at 10% on cement clinkers⁵ and Portland cement⁶.

The Road and Fuels Tolls Act

Reversal of CNG proposal

The Act has dropped the charge of TZS 382 per kg on Compressed Natural Gas (CNG) used in motor vehicles which was proposed in the Bill.

Value Added Tax

Exemption - blended or fermented tea

The Act introduces a new VAT exemption on blended or fermented tea from locally grown tea leaves⁷.

VAT refund - reversal of proposed 30 day payment deadline

The requirement under the existing law is that the TRA (i) decide on a VAT refund application within 90 days of receiving an application, and (ii) state the period (month) in which the refund will be paid. The Bill had proposed a VAT refund payment deadline of 30 days from the date of submission of the refund application. However, this is not reflected in the Act.

Tax Administration Act

“Cargo consolidator” - compliance requirement and penalty for failure to comply

The Act introduces a definition of

'cargo consolidator' as a "*person licensed by a competent authority to operate cargo consolidation and deconsolidation operations*".

In addition, the Act outlines the obligations of cargo consolidators to comply with customs regulations and other laws governing the deconsolidation of cargo to its owners upon the importation of goods into the country.

Where a person contravenes these requirements, they commit an offence and are liable to a fine equal to 30% of the customs value of imported cargo.

The due date to file excise duty returns is changed to the 25th day of the month following the month to which the return relates (from the last working day of the following month).

The Act introduces a new VAT exemption on blended or fermented tea from locally grown tea leaves.

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2 Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher
3 Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages

4 Wine of fresh grapes, including fortified wines; grapes must other than that of heading 20.09.

5 2523.10.00

6 2523.29.00

7 0902.30.00 and 0902.40.00

EFD offence - reduction of maximum fine

The Act limits the maximum fine for the failure to issue a fiscal receipt to 200 currency points (TZS 4,000,000) as opposed to 1,000 currency points (TZS 20,000,000) stated in the Budget Speech and the Bill.

Tax Ombudsman

Although the Budget Speech

had proposed to insert a provision to empower the Tax Ombudsman to hear and address complaints emanating from tax decision, procedural, service and administrative matters, this is not reflected in the Act.

**Tax Revenue Appeals Act
Out of Court Settlement - 60 day
timeline (plus possible 10 day
extension)**

The Act has reduced the timeline for an out-of-court settlement to 60 days (from the 90 days proposed in the Bill), but it is still possible to extend this period by up to 10 days upon approval by Tax Revenue Appeals Board (TRAB) or Tax Revenue Appeals Tribunal (TRAT).

**Bank of Tanzania Act
Transacting in currencies other
than the Tanzania Shilling**

The Budget speech included a directive to all stakeholders to *“ensure that prices are quoted and paid in Tanzanian shillings”*.

This was followed by a Bank of Tanzania public notice of 20 June 2023⁸) which concluded with the following statement: *“The Bank of Tanzania also wishes to remind the public that Section 26 of the Bank of Tanzania Act 2006 stipulates that the Tanzanian shilling is the only legal tender in the country. Therefore, any act of refusing payment in Tanzanian shilling amounts to violation of the Bank of Tanzania Act 2006.”*

The Act has now amended the Bank of Tanzania Act by adding a new subsection (2) of Section 26 which reads as follows: *“Save as otherwise prescribed by the Minister in the regulations, a person who transacts using any other currencies other than the legal tender issued by the Bank, commits an offence”*. We await the issuance of regulations to provide further guidance on this amendment, as its interpretation is not entirely

clear.

Mining Act

Requirement to set aside minerals for processing, smelting, refining and trading locally - limited to gold

Whilst the Bill had proposed this requirement to apply on (all) minerals, the Act clarifies this requirement is limited to gold only.

Royalty payment on gold or gemstone - one third by way of deposit of refined gold or gemstone

The Bill proposed for one-third of the royalty amount payable to be settled through deposit of refined minerals into the National Gold and Gemstone Reserve. The Act clarifies this requirement is limited to royalty payment with respect to gold or gemstone by depositing refined gold or gemstone respectively.

National Parks Act & Ngorongoro Conservation Area Act

Revised allocation of charges payable

Charges payable to the Board of Trustees (TANAPA) or the Ngorongoro Conservation Area Authority (NCAA), and collected by the TRA, are to be distributed as follows:

Allocation Recipient Institution / Purpose

3% Tanzania Wildlife

Protection Fund⁹

6% Tourism Development

Levy¹⁰

91% The Consolidated Fund

⁸ Bank of Tanzania - Public Notice of 20 June 2023 - Dealing in foreign currency within the United Republic of Tanzania

⁹ To be deposited as special account at Bank of Tanzania

¹⁰ To be deposited as special account at Bank of Tanzania

Finance Act 2024 -

Recap of some key changes

Income Tax

General

- Charitable status - scope extended to institutions involved in health services and environmental conservation
- Alternative Minimum Tax (AMT) - exemption for tea processing companies for three years

Deductibility of expenses/ losses

- Fiscal receipt - Requirement of fiscal receipt to support expense claim
- Bad debt - new regulation to be issued (according to Budget speech)
- Loss restriction - offset reduced to 60% (from 70%) of current year profits

Transactions

- Change in control - exemption limited to issuance of shares by a resident entity
- Capital gains tax - explicit restriction of 3% rate on gross disposal proceeds to individuals

Public Sector Income Tax Return

- Two signatories to be entity officers - no statutory requirement for CPA in public practice
- Filing deadline of nine months (instead of six months)

Withholding Tax

- Digital
 - » Transfer of digital assets at 3%
 - » Digital content creators at 5%
- Rent - extension to construction equipment or machinery at 10%
- Royalty - reduced rate (5%) on payments to resident sports entities or Tanzania Football Federation (TFF)
- Interest - exemption on interest paid by resident financial institutions to non-resident financial institutions and funds where an agreement with Government to provide concessionary loans to resident financial institutions

Excise duty

- New filing deadline for monthly return: 25th day of the following month
- Bottled water - rate reduced to TZS 56 per litre
- Undenatured ethyl alcohol
 - subject to excise duty, but where used as a raw material is creditable against excise duty on finished products (certain specified alcoholic products)

Imports

- Industrial Development Levy (IDL) - to apply on selected imported goods including:
 - » 10% on beer made from malt, non-alcoholic beer and energy drinks
 - » 5% on cement clinkers and Portland cement
- Railway Development Levy (RDL)
 - rate increased to 2%
- “Cargo consolidator” - new compliance requirement and related penalty
- Customs Duty - various changes (for details, see our separate Customs Duty Update)

Value Added Tax

- VAT scope to cover online data services provided by a non-resident supplier to an unregistered customer
- New definitions for the terms “gaming supply” (exempt supply) and “serviced apartment” (taxable supply)
- Exemption
 - » Airline sector - various supplies in relation to aircraft where supplied to local manufacturers or assemblers of aircraft (in addition to local aircraft operators)
 - » Blended or fermented tea from locally grown tea leaves
- Zero rating:
 - » Locally manufactured fertiliser - extended for one

year up to 30 June 2025

» Supply of gold to licensed refinery and the Bank of Tanzania

Tax Appeals and Administration

- Disputes:

- » Objections - Deemed admission of objection upon fulfilment of deposit requirement

- » Appeals - 60 day timeline for out of court settlement

- Currency point - increased to TZS 20,000 (from TZS 15,000)

- EFD offence - fine capped at 200 currency points

- Document service - to include email and fax

Mining Sector

- Exemption of inspection fee on the supply of gold to the Bank of Tanzania

- Requirement to set aside gold for processing, smelting, refining and trading within the country

- Royalty payment with respect to gold or gemstone - one third by way of deposit of refined mineral

Bank of Tanzania

- A requirement to transact in Tanzanian Shillings