

Tax First

Press release—proposed tax amendments

NEW TAX SOURCES*

- ◆ tax on sale of mining rights
- ◆ withholding on entertainment, management and consultation fees
- ◆ ringfencing of losses from suspect activities e.g. hobbies
- ◆ transfer and stamp duty on sale of interest in a property company, CC or trust
- ◆ removal of exemption of transfer duty on mining properties
- ◆ 5% excise levy on exportation of certain goods

RATE INCREASES*

- ◆ non-diamond mining tax rate to 44%
- ◆ dividend withholding tax to 20%
- ◆ 15% VAT on livestock sales
- ◆ medical services moves to exemption
- ◆ 15% VAT on direct export of certain goods not reclaimable subsequently

CLEAN-UP of EXISTING LEGISLATION*

- ◆ Increase of VAT threshold to N\$500,000
- ◆ minister discretion on recoupment values removed
- ◆ provisional tax penalties and interest administrative arrangements
- ◆ tax directives on pay-out of educational policies
- ◆ withholding tax on interest clarifications
- ◆ amendments to building allowances claims

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* refer to July 2011 Special Edition for full details

Taxation of expatriates in Namibia

The growing Namibian economy is challenged by the shortage of Namibian expert skills. These critical skills are required to build the businesses that drive growth. Specifically in specialised industries, businesses have to import required scarce skills by appointing expatriates.

With the recent trend of expert expatriate appointments in the country, the taxability of expat remuneration became relevant.

Namibian Law

Namibia's tax system is based on the source principle and not residence. That implies that residents and non-residents are taxed on exactly the same basis in respect of Namibian salary income.

Gross Income

The definition of *gross income* in section 1 of the Income Tax Act specifically includes payments for services rendered (which includes salaries).

Double Tax liabilities – Source of income determined to be in two countries

Where an expat's home country levies tax on a residency basis, the income earned while working in Namibia may be subject to tax in Namibia as well as in the foreign country.

A Double taxation agreement ('DTA') between Namibia and home/foreign country, determine in which of the

two countries the employee will be taxable. The aim of the DTA is to prevent individuals from being taxable in both countries. Note that all three requirements of the article dealing with "Dependent Personal Services" should be met in order for the non-resident not to be taxable in Namibia.

If the following conditions contained in most DTA's are met, non-resident employees will not be taxable in Namibia:

- ◆ the individual is present in the host country for less than 183 aggregated days within any tax year; **AND**
- ◆ the remuneration is paid by an employer who is a not a resident of Namibia; **AND**
- ◆ the remuneration is not an expense to a permanent establishment or fixed base held by the employer in Namibia.

Where no DTA is in place between Namibia and the home country, the expatriate may be liable to pay tax in both countries.

Registration as taxpayers

Expatriates will be required to register as a taxpayers should he/she be subject to taxation in Namibia. These employees will also be liable to submit income tax returns in Namibia.

The year end for individuals is 28 February of each year, and the tax return for salaried individuals is due within 4 months after this date, i.e. 30 June.

Split payments in home and host country

Expatriates are often paid in their home AND host country. Where payments in the home country relate to services rendered in Namibia, these amounts will also be taxable in Namibia based on the specific inclusion in gross income above.

Proposed withholding tax on entertainment, consulting and management fees by non-residents

Entertainment, management and consulting fees paid to expatriates rendering these services in Namibia may be subject to a proposed 25% withholding tax if new legislation is introduced. This would only apply to expatriates not subject to normal income tax in Namibia.

Employer PAYE liability

Where an expatriate renders services in Namibia under an employer/employee relation ship, the employer company is required to register for, deduct and pay over employment taxes on expat remuneration monthly.

Government Gazettes

Government Gazettes for the period 27 June 2011 until 21 July 2011 was included in this edition. This is not an exhaustive list of Acts/Notices/Proclamations published.

Acts

6/2011—Promulgation of Inspection of Financial Institution Amendment Act
7/2011—Promulgation of Income Tax Second Amendment Act

Government Notice

104–107/2011—Regulations In terms of the Allied Health Professions Act, 2004

Bills in progress*

- B 6-2008 National Youth Service Bill
- B1-2010 Industrial Property Bill
- B7-2010 Namibian Planning and Construction Council Bill
- B15-2010 Employment Service Bill
- B 18-2010 Architectural and Quantity Surveying Bill
- B26-2010 Statistics Bill

Income Tax Act change

Section 1 of the Income Tax Act was changed to provide that a retirement annuity fund must be registered in Namibia under the Pension Fund Act, 1965) for contributions to qualify for relevant deductions in the Act. Contributions to funds that are not registered in Namibia, would therefore not qualify for the N\$40 000 tax benefit on retirement fund contributions.

- B1-2011 Unit trust control Amendment Bill
- B3-2011 Pension Fund Amendment Bill
- B4-2011 Inspection of Financial Institutions
- B6-2011 Appropriation Bill
- B7-2011 Conferment of National Honours Bill

Source: Parliament of Namibia www.parliament.gov.na/bills

VAT registration in Namibia

Section 15(1)(a) of the VAT Act compels any person who carries on a taxable activity with a turnover above N\$200,000 to be registered for VAT. This VAT registration must be applied for within 21 days of becoming liable.

In terms of the latest proposed amendments the VAT registration threshold will increase from N\$200,000 to N\$500,000.

In terms of subsection (4) any person who carries on a taxable supply but does not exceed the threshold may register voluntarily provided he has a fixed place of abode and is capable of keeping proper records. The latest proposed amendments will abolish the voluntary VAT registration.

The Act as it stands requires a person to apply for registration within 21 days and the Commissioner will register such a person within 21 days. For the purpose of registration, there are documents required by the commissioner before one's application is considered.

This article looks at various documents required by the Commissioner and the effective date of registration:

Application form

The application for registration shall be done in form 6-0/0289 – prescribed for both compulsory and voluntary registrations.

Bank Account

Each person applying for registration is required to have a bank account with a Namibian commercial bank, and such a commercial bank should certify the account details to be correct by stamping the original application form. In practice a bank stamp can only be obtained from the branch where the account is held.

Health and Fitness certificate

Each person operating within a municipal jurisdiction is required to have a valid health and fitness certificate when applying for VAT registration with Inland Revenue. This certificate is obtainable from the municipality under which the business operates. It takes approximately three days for a certificate to be issued.

For businesses operating outside municipality boundaries, the requirement is that a health and fitness certificate should be obtained from the Ministry of Health and Social Services.

The cost of a health and fitness certificate varies from municipality to municipality and ranges from N\$180 to N\$700 depending on the nature of business with hospital-ity industry being the highest.

Entity documentation, certificates and licenses

In addition to a duly completed application form and health certificate, the Commissioner requires the following documents to be submitted with the application for registration:

- ♦ The founding statement or certificate of incorporation or Trust Deed;
- ♦ A valid Namibian Tourism Board Certificate for all companies in the tourism industry;
- ♦ A gambling licence for all companies in the gambling industry;
- ♦ An Exclusive Prospective licence for all companies dealing in Mining and Exploration

Once all the documents are gathered, the application form is then submitted to a division called New Business at Inland Revenue regional office in that region or to Inland Revenue closest to the business premises. The consideration for office of registration is not where books are kept but rather where the business trades from.

The New Business division, responsible for VAT registration, forwards the application form to the Field Audit division for inspection of the business premises, ascertaining whether the business is liable and advisory on VAT requirements. Once that is done and completed the form is then referred back to the New Business division for registration to be processed.

Registration takes effect from the beginning of the second month following the month during which the application for registration was approved or if requested the effective date will be the beginning of the month following the month during which the application was approved.

Once a person is registered for VAT purposes, such a person will not be allowed to cancel the registration before the expiry of a two year period unless the business ceased trading.

chantell.husselmann@na.pwc.com

Tax Calendar— August 2011

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22 Import VAT return PAYE return	23	24	25 VAT return (Category A)	26	27
28	29	30	31 Social Security payment			30

Important dates in the tax calendar

Returns and top-up payments — Income tax returns:	
Individuals (Employees)	30 June each year
Companies	Within 7 months after financial year end
Taxpayers (other than companies/salaried employees) wholly/partly carrying on a business/profession/farming	Within 7 months after the tax year end (30 September each year)
Provisional tax returns	
Individuals	
1st Provisional	Within 6 months from commencement of the respective tax year (on/before 30 August each year) (Not applicable to farmers)
2nd Provisional	On/before the last day of the respective tax year (28 February each year)
Companies	
1st Provisional	Within 6 months from commencement of the company's financial year
2nd Provisional	On/before the last day of the company's financial year end
Employers: PAYE Returns	The employer should submit within 20 days following the month during which PAYE is required to be withheld

Provisional tax returns (Continues)	
Employers: PAYE reconciliation return	Annual PAYE reconciliation should be submitted within 30 days from the tax year end (30 March each year)
Withholding Tax	
Dividends	30 days from date of accrual or payment of dividend to non-resident
Royalties	Within 14 days following the month during which the royalty accrued or was paid
Interest	Within 20 days following the month during which the interest accrued or was paid
Value Added Tax	
VAT return	25th of month following end of 2 month tax period
Import VAT return	20th of month following end of previous month
Import VAT on services	30 days from date of import of services
Customs & Excise	Payment at time of clearing per customs assessment notice (excl fuel import levy payment)

Meet the PwC Namibia Tax Practice - Windhoek



Give us feedback

Please give us feedback on our newsletter at
amanda.gous@na.pwc.com.

Windhoek

344 Independence Ave
 Telephone Number: +264 (61) 284 1000

Walvis Bay

2nd Floor, Nedbank Building, Sam Nujoma Ave
 Telephone Number: +264 (64) 217 700

Stefan Hugo

stefan.hugo@na.pwc.com
 Telephone Number: +264 (61) 284 1102

Chantell Husselmann

chantell.husselmann@na.pwc.com
 Telephone Number: +264 (61) 284 1327

