

Tax First

Special Edition 2



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Proposed amendments to tax and the introduction of an export levy

On the 17th of August 2011, after consultation with various stakeholders, Namibia's Ministry of Finance issued a second press release relating to the proposed amendments to tax laws and the introduction of an export levy. The press release was presented by Deputy Finance Minister Calle Schlettwein. The items set out below are proposed amendments and no draft legislation is available yet.

The following amendments to the 21 July 2011 press release were proposed:

Income Tax

- The **tax rate for mining** companies other than diamond mining will remain at 37,5% (instead of 44% previously proposed). As an alternative, the Ministry of Finance is considering a formula-based surcharge that will levy higher taxes when bigger profits are generated.

Value Added Tax

- Refunds will continue to be allowed to non-resident persons for VAT paid on the acquisition of Namibian goods exported to other countries. Under the previous press release, non-residents would not have been able to claim refunds on exports of raw materials, unprocessed fish, livestock, game, crude oil and gas.
- All exports by registered persons will remain **zero-rated**.

Export Levy

- The basis of the proposed export levy will be determined for specific industries and products.
- It is proposed that the levies will range between **0% and 2%**. The previous proposal was a 5% levy on all exports of raw minerals, unprocessed fish, game, crude oil and gas.

All other amendments as proposed in the press release of the 21st of July 2011 remain unchanged.

These include:

Income Tax

The Income Tax Act, 1981 (24 of 1981) as amended will be amended to:

- Introduce taxation on income from the alienation of a right or **license to explore, mine or retrieve natural resources** in Namibia, irrespective where the transaction is concluded or where the payment is made. The income on the sale of shares in companies that hold such a right will also be taxable;
- Limit tax concessions granted on exports of **manufactured goods** to goods manufactured in Namibia;
- Remove the discretion that the Minister has to accept a lower value than the market value of assets for **recoupment** purposes;
- Introduce **ring-fencing** to prevent expenditure and losses normally associated with "suspect activities (disguised hobbies, etc)" from being deducted to reduce taxable income;



- Regulate the deductibility of contributions to **educational policies**, the subsequent taxation or exemption of proceeds from these policies and to require insurance companies to apply for a tax directive when these policies mature or are cancelled;
- Clarify the provision dealing with **withholding tax on interest** by inserting a definition of “gross interest”. The new definition will ensure that interest from stock or securities (including treasury bills) issued by the Government of Namibia, or any regional council or local authority should not form part of the gross interest to calculate withholding tax on interest;
- Ensure that the exemption of withholding tax on interest with regard to negotiable instruments should only apply to financial institutions and not Unit Trust Schemes. This means that **Unit Trust Schemes** should charge a withholding tax on interest with regard to negotiable instruments;
- Clarify that an undisclosed principle who is represented by an agent or any other person (excluding a stock broker), for withholding tax on interest purposes will apply to both financial institutions and Unit Trust Schemes. This means that investments by undisclosed investors through their agents will be treated that same by financial institutions and Unit Trust Schemes. Previously the treatment of undisclosed investors was only applicable to financial institutions.

- Ensure that a Unit Trust Scheme, who does not make distributions to its members during a financial year of the Unit Trust Scheme, declare a non-distribution within 60 days after the end of the said financial year.
- Effectively and efficiently administer the deductibility of contributions to **company owned policies** to determine the taxable income of a person and the subsequent taxation or exemption of proceeds from these policies.
- Ensure that the initial 20% **building allowance** will only be applicable to the person who has erected the building to be used for trade purposes and that the 4% building allowance runs from the date when the building is brought into use and not from the year the building is erected. The same will apply with regard to the 20% and 8% building allowances in respect of buildings used solely for manufacturing.
- Introduce a **withholding tax (final tax) on entertainment fees, management fees or consultancy fees** paid by a Namibian resident to a non-resident person. The rate will be 25% on the amount payable.
- Increase the rate of **non-resident shareholders tax** from 10% to 20%. The 10% rate would still be applicable to investors holding at least 25% of the share capital in the Namibian company.
- Simplify calculations of penalties and additional tax for **provisional tax** purposes.

Value added tax (VAT)

The Value Added Tax Act, 2000 (Act 10 of 2000) as amended will be amended to:

- Increase the **VAT threshold** from N\$ 200,000 to N\$500,000;
- Abolish **voluntary VAT registration**. The affected voluntary registered person will be allowed to settle any outstanding VAT, penalties and interest, especially as a result of the VAT deregistration, over a period of six months from the effective date of the amendments.
- Provide for the **Tax tribunal** to be established by the Minister of Finance to consider VAT appeal cases;

- Remove the supply of **medical and paramedical services** from the zero-rate schedule and move to the exempt schedule. This means that doctors, paramedics, etc cannot register for VAT purposes anymore. They will therefore not be able to claim input VAT on goods and services acquired to supply medical and paramedical services;
- Introduce a standard rate **(15%) on supply of live-stock** as is the case with game.
- Hold the public officer of the company, the trust and trustees of the trust and the person from whom the shares or members interest are acquired jointly or severally liable for duty on failure of payment of this transfer duty. It also requires from any person who is entitled to remuneration with regard to such transaction to declare the transaction to the Receiver of Revenue within a period of 6 months from the date of the transactions;
- Regulate the value on which transfer duty should be calculated when shares or membership interest in a company, trust or close corporation that holds property is alienated;
- Introduce a formula to calculate transfer duty when a person acquires any property consisting of or including an undivided share in joint property consisting of or including an undivided share in joint property. The formula will not be applicable to sectional title schemes;
- Abolish the exemption of payment of **transfer duty** in respect of the acquisition (sale, lease, etc) by any person from the State, under the provision of any law relating to the **mining of minerals**, of any real right in land or any right to mine minerals.

Stamp Duty

- The Stamp Duty Act, 1993 (15 of 1993) will be amended to introduce an exemption on the payment of stamp duty when **immovable property** is purchased by a **natural person** and where the value is less than N\$ 400,000 and to levy stamp duty of N\$ 10.00 per N\$ 1,000 where the value of the immovable property exceeds N\$ 400,000;
- **Juristic persons** (including trusts) will pay a flat rate of N\$ 12.00 per N\$ 1,000 irrespective of the value of the immovable property.

Transfer duty

The Transfer Duty Act, 1993 (Act 14 of 1993) as amended will be amended to:

- Levy transfer **duty on the sale of membership interest or shares in a company**, trust or close corporation respectively which owns immovable property. These transactions will be subjected to the same rates that are currently used when natural persons or juristic persons acquire property;

Should you have any queries in this regard please feel free to contact one of our tax specialists.

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