



Tax First

Namibia Newsletter

May 2012

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Sale of mining rights now taxable

The Income Tax Act was amended in December 2011 to introduce tax on amounts received for the alienation of a right or license to explore, mine or retrieve natural resources in Namibia. This is irrespective of where the transaction is concluded or where the payment is made.

A specific inclusion in gross income was enacted in section 1, paragraph (o) with the Income Tax Amendments of 30 December 2011.

The Amendments are effective *in the case of any taxpayer which is a company*, at the commencement of the financial year of a company commencing on or after 1 January 2012.

It specifically includes amounts that meet the following criteria from the definition in gross income:

- *any amount received/accrued (OR the open market value which ever is higher) from another person;*
- *as consideration ;*
- *for the sale, donation or other alienation or transfer of ownership of a Namibian mineral licence/right ;*
- *and includes the sale of shares in a company for a Namibian mineral licence/right.*

In terms of the Mining and Prospecting Act a mineral licence *means a reconnaissance licence, an exclusive prospecting licence (EPL), a mining licence or a mineral deposit retention licence and includes the renewal of licences.*

Therefore the income from the disposal of mining rights OR the shares in a company which holds mining rights will be taxable in Namibia. Previously such income was generally considered capital in nature and specifically excluded from gross income.

It is important to note that the full purchase amount is included in taxable income under this section. The Income Tax Act was not amended to provide a deduction for capital costs incurred in respect of such licenses. φ

Pitfalls for Expat Employment

The Namibian skills shortage and strong growth in specialist industries in our economy require skilled expatriates to work in Namibia. These are some of the common issues that Namibian expats and their employers will have to deal with.

1. Determining taxability in Namibia

- Namibia's tax system is based on the source principle and not residency.
- All non-resident individuals, should submit tax returns in respect of Namibian source income.
- An expatriate may be exempted from paying taxes in Namibia where a Double Tax Agreement was concluded between Namibia and the individual's home country.
- Careful consideration should be given to the tax implications in both the home country and Namibia. Split remuneration, employee stock options and long-term deferred compensation schemes for expatriates are specific areas that require early planning.

2. Taxing Employment Income

- Any amount, including a voluntary award, received by or accrued to a person in cash or kind, in respect of rendering services or employment, will be considered to be employment income.
- This includes the value of fringe benefits in respect of such services or employment.
- Taxation paid on behalf of expatriates (who receive salaries net of taxes) is also considered a fringe benefit and a gross-up calculation should be done to determine the tax on this benefit.
- Employment income (remuneration) thus includes salaries, wages, leave pay, overtime, bonuses, allowances, commissions, fees, emoluments, pensions, annuities, superannuation, gratuities, retiring allowance or stipend, certain lump sum payments and fringe benefits (e.g. housing, school fees, home visit airfares).

3. Social Security

- The employer as well as each employee (irrespective whether an expatriate or not) should be registered with the Social Security Commissioner, and make monthly contributions in this regard.

4. Namibia tax filing requirements

- The expatriate should register as a taxpayer; and
- Deregister when he/she leaves Namibia.
- Pay As You Earn (PAYE) on remuneration should be deducted and paid over monthly by the employer.
- An annual PAYE 5 certificate should be issued for the expatriate (to be filed with the annual income tax return).
- Annual income tax returns for salaried individuals are due on 30 June.

5. Work permit and Visa requirements

- Our article on page 3 contains a roundup of Namibian Immigration requirements. ¶

Tax Tribunal—legal practitioner appointments

Congratulations to:

- Theo Frank
- Harald Geier
- Esi Schimming-Chase
- Jesse Schickerling
- Kaijata Kanguethi
- Lucious Murorua
- Chris Gouws

The tax tribunal is a body established to consider appeals by taxpayers against assessments raised by Inland Revenue.



Immigration in Namibia

The process to arrange Namibian immigration documents for expatriate experts involves extensive preparation and planning. Below is a brief explanation of the immigration system in Namibia.

Overview

In terms of the Namibian Immigration Control Act, Act 7 of 1993; any person who intends to enter or reside in Namibia for the purpose of employment or to carry on a profession is required to have a valid employment visa or permit.

Depending on the purpose and duration of his/her stay in Namibia, different immigration applications are required by the Ministry of Home Affairs and Immigration (MHA). An application will only be considered if application forms are completed in full, all requirements are met and the relevant required documents have been submitted to MHA offices.

The respective immigration applications for Namibia can be obtained and submitted at the nearest Namibian Embassy in the home country of the applicant or the Ministry of Home Affairs: Alien Control in Windhoek, Namibia.

Business Visa

A business visa is required for a person visiting Namibia in any of the following instances:

- looking for prospects to set up formal business;
- exploration for business opportunities;
- business people attending meetings at branches or subsidiaries;
- official government visits;
- attending conferences, corporate events (not work) and meetings for which no remuneration is received;
- attending short training courses (not more than 90 days), sports events, expositions and trade fairs.

Business visa's are valid for a period not exceeding 90 days per annum. Kindly note, the 90 days per annum does not refer to a calendar, but rather to the day of first entry into Namibia. Nationals from certain countries are exempt from the application and payment of business visa fees.

Work Visa

A work visa is required for any person who intends to enter Namibia for the purpose of employment. The visa should be granted to the individual prior to entering the country.

The work visa is valid for a period not exceeding 3 months. Please note that an initial application for a 6 months work visa has the same requirements as a work permit application.

Work Permit

Any person who intends to enter or reside in Namibia for the purpose of employment is required to have a valid employment permit prior to entering the country, if the duration/period of stay will exceed 3 months.

A favourable police clearance certificate from the country of origin and last country of residence/work is required. The processing time for authorities in the respective countries to issue such certificates vary, and it is important to obtain such certificate for expats in advance as this is one of the major reasons causing delays in the submission of the work permit application to Home Affairs.

Please contact Harold Mbuende at harold.mbuende@na.pwc.com or refer to the MHA office website www.mha.gov.na for further information.

Application	Minimum processing time for applications	Validity period of document
Business Visa	7 – 10 days	90 days
Work Visa	7 – 10 days	3 – 6 months
Work Permit	3 months	1 or 2 years

Government Gazettes

Government Gazettes for the period February to March 2012 are covered in this edition. This is not an exhaustive list of Acts/Notices/Proclamations published.

Government Notice

103-2012 Determination of date of commencement of Statistics Act to be 16 April 2012

113-2012 Namibia Financial Institutions Supervisory Authority: Notification of application for approval of amendment of rules of the Namibian Stock Exchange

119-2012 Bank of Namibia: Statement of Assets and Liabilities as at close of business on 31 March 2012

Tax Calendar—May 2012

Monday	Tuesday	Wednesday	Thursday	Friday
14	15	16	17 <i>Ascension Day</i>	18
21 • Import VAT return • PAYE return • Withholding tax on Services	22	23	24	25 <i>Africa Day</i>
28 • VAT return (Category B)	29	30	31 • Social Security payment • Tax return - companies with 31 October YE; • 2nd provisional returns - companies with 31 May YE .	

Bills in progress*

- B1-2011 Unit Trust Control Amendment Bill
- B2-2011 Long-term Insurance Bill
- B3-2011 Pension Fund Amendment Bill
- B 4-2011 Inspection of Financial Institutions Bill
- B 14-2011 Stamp Duty Amendment Bill
- B 7-2011 Conferment of National Honours Bill

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

Should you need any help please feel free to contact one of our tax specialists.

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