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Newsletter 6 of 2011

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Tax First

Also inside this issue:

Withholding taxes in Namibia

Namibia's tax system is based on the source principle (as opposed to the residence base applied in some other tax regimes). That implies that residents and non-residents are taxed on exactly the same basis in respect of income which is from a Namibian source (section 1) or deemed source (section 15).

All non-resident taxpayers (individuals as well as companies) have to submit a tax return in respect of their Namibian source income.

Although the general principle in the paragraph above is very simple, its application could be complicated where non-residents are required to register as Namibian taxpayers and administer this from their home countries.

To cater for these difficulties , the Income Tax Act contains sections, which make provision for the withholding of tax by the Namibian payee in respect of certain kinds of income.

The following withholding taxes may apply to payments from Namibia to non-residents:

Dividends paid to non-residents subject to withholding tax

Non-resident shareholders' tax is a withholding tax, calculated at a rate of 10%, on any dividends paid by any company to:

- Any person not ordinarily resident or carrying on business in Namibia
- A deceased estate of such a person
- A company neither managed nor controlled in Namibia
- Any company of which more than 50% of the issued share capital is held, directly or indirectly, by one or more companies, neither managed nor controlled in Namibia.

Only dividends from a Namibian source, where companies operate inside and outside Namibia, are subject to NRST.

The payment of NRST is subject to certain exemptions as specified in Section 48 of the Act.

Interest paid to non-residents subject to withholding tax

Interest accruing to non-residents and external companies is taxable to the extent that it is from a Namibian source.

The withholding tax is applicable to interest received from Banking Institutions, registered with the Bank of Namibia, and Unit Trusts. Interest from Banking institutions and Unit Trusts are subject to a withholding tax of 10% as indicated in Section 34A of the Act. This withholding tax will be deducted by the Banking Institution or Unit Trust and will be paid to Inland Revenue as a final tax.

The following exemptions are applicable:

- Interest accrued to any person/ external company not carrying on business in Namibia from securities issued by the Government of Namibia,/regional council/local authority in Namibia .
- Subscription shares issued by any building society in Namibia.
- Interest accrued to natural persons:
  - From any deposit in the Post Office Savings Bank ;
  - From a building society in Namibia as dividends on special tax.

Royalties paid to non-residents subject to withholding tax

Any royalties or similar payments are subject to a withholding tax of 10,2% (34% X 30%) of the gross royalties payable.
A royalty will include payments for:

- Use of trademarks, copy rights or other intellectual property; and
- the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information.

The withholding tax due is payable within 14 days after such royalties or similar payments accrue to the foreign company or person not ordinarily resident in Namibia.

Charterers of ships and aircraft

In terms of Section 34 of the Income Tax Act any person, not being a person ordinarily resident in Namibia or a domestic company, who loads goods in Namibia, either as an owner or charterer of any ship shall be deemed to have derived a taxable income of N$ 20 for every N$ 200 (i.e. 10% of taxable income) payable to him or an agent on his behalf, irrespective of whether the amount is payable in or outside Namibia.

Film producers

Any person who is not ordinarily resident in Namibia that derives income in Namibia from of any business of distributing, exhibiting or exploiting motion picture films, or of leasing such films to other persons, or of licensing other persons to exhibit or display such films, or in relation to the acquisition of any advertising matter for use in connection with such films is subject to withholding tax in Namibia on such income.

This person will be taxable on an amount of taxable income calculated as follows:

Income 10% of the Total Income received, inside and outside Namibia
LESS Expenses incurred in Namibia in relation to such income received
Equals Taxable income in Namibia, taxed at the rate applicable to the particular taxpayer.

Government Gazettes

Government Gazettes for the period 24 May 2011 until 24 June 2011 was included in this edition. This is not an exhaustive list of Acts/ Notices/Proclamations published.

Acts

Act 2 of 2011—Long Term Insurance Amendment Act

Act 4 of 2011—Appropriation Act, 2011

General Notices

172—180/2011— Competition Commission notices.

60/2011—Judicial Service Commission Regulations: Art 85(3) of the Namibian Constitution.

Government Notice

66/2011—Meeting of the selection committee to interview candidates for appointment as members of the Electoral Commission.

67/2011—Correction of notice No 57 of 13 May 2011.

69/2011—Amendments of the regulations under the Social Security Act.

71/2011—Medicines and related substance control Act, 2003: Registration of certain medicines.

72—74/2011—Regulations relating to minimum requirements: Allied Health Professional Act 2004.

75—77/2011—Regulations relating to the registration and maintenance of registers and the restoration of a name to the register: Allied Health Profession Act 2004'

91/2011— Amendment of GN 66 of 31 May 2011: Meeting of the selection committee to interview candidates for appointment as members of the electoral commission.

92/2011—Amendment to the Labour Court Rules.

93/2011—Notice of application for review of decision of commission in respect to proposed merger.

*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
- B1-2011 Unit trust control Amendment Bill
- B3-2011 Pension Fund Amendment Bill
- B4-2011 Inspection of Financial Institutions
- B5-2011 Income Tax Amendment Bill

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

Zero rating of exports

The Value-Added Tax Act of Namibia (the 'VAT Act'), Act 10 of 2000, provides for different scenarios in relation to goods sold by VAT registered persons to customers situated outside the territory of Namibia. It is vital that registered persons are familiar with the provisions per the Act and that the correct VAT treatment is applied. Below find a brief discussion of simulated transactions.

The discussion to follow can be divided into

- Indirect Exports; and
- Direct Exports

Indirect Exports

Example 1

The sale of goods by a registered person to foreign-based buyers where the respective buyers collect the stock at the registered person's premises and are responsible for the arranging and payment of transport of the stock.

The VAT Act provides that "exported from Namibia", in relation to any movable goods supplied by any registered person under a sale or a credit agreement, means consigned or delivered by the registered person to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner. If the recipient collects the supplies from the registered person's premises and then transports the goods, the goods are not "consigned" to the recipient but "delivered" to the recipient for transport to his address in an export country. The registered person therefore does not export the goods. The exporter will be the recipient of the goods and not the seller.

In relation to the abovementioned scenario the registered person will be required to charge VAT at the standard rate of 15% to the clients as described above.

Direct Export

Example 2

The sale of goods by the registered person to foreign-based buyers where the registered person is responsible for arranging and payment of transport of the goods.

In terms of the VAT Act, if the supplier arranges for transport (and the subsequent payment thereof) of the goods, the goods are "consigned" to the recipient and "delivered" to the recipient at his address in an export country.

This means that the delivery of the goods takes place in the export country and it follows that the registered person does export the goods as per the VAT Act. As per the provisions of the VAT Act, such transactions will attract VAT at the zero rate.

We trust that the above will assist you in your endeavour to be tax compliant. As to any questions regarding the direct vs indirect exportation of goods or the documentary requirements of Namibia Inland Revenue, kindly contact the PwC Indirect Tax department.

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African Tax Administration Forum

ATAF History

The African Tax Administration Forum (ATAF) is a platform to promote and facilitate mutual co-operation among African Tax Administrations (and other relevant and interested stakeholders) with the aim of improving the efficacy of their tax legislation and administrations.

ATAF was inspired by the deliberations at the "International Conference on Taxation, State Building and Capacity Development in Africa" held in Pretoria, South Africa on 28 and 29 August 2008. Commissioners, Senior Tax Administrators and Policy Makers from 39 countries resolved there to work towards the establishment of ATAF .

The Forum brings together Heads of African Tax Administrations and their representatives to discuss the progress made, challenges faced and possible new direction for African tax policy and administration in the 21st Century.

The ATAF works towards state building, governance, political economy and revenue mobilization.

The ATAF is an African programme reflecting African needs and strategies. The work and programme priorities of the Forum will be driven and managed by African countries, with the support of donor agencies, other tax administrations and international organisations.

Vision

To promote efficient, effective and economic tax administration to foster economic growth and improved service delivery for the improvement of living standards of people living in Africa.

Mission

To encourage and support new partnerships among all African countries in developing the capacity of African Tax Administrations in their ability to achieve their revenue objectives.

Objectives of the ATAF

With the aim of achieving the broadest possible geographic and linguistic representation on the African continent, the ATAF will work towards:

- Promotion of economic development, good governance and accountability
- Domestic resource mobilisation
- Culture of professionalism and mutual support
- Mutual cooperation and increase the level of voluntary tax compliance
- Combating tax evasion and avoidance
- Implementation of African tax strategies

Capacity development aimed at strengthening tax administrations.

Establishment of the ATAF

- Laying a strong basis for a new approach to African taxation, state building and capacity development;
- Establish and develop bilateral and continental networks to regularly exchange ideas on the lessons learned and good practice on all issues of taxation;
- Examine ways to improve systems and mechanisms in African tax administrations through the sharing of experiences and developing relevant best practices;
- Engage in an ongoing dialogue with their counterparts from OECD countries, other multi-lateral organisations and other relevant organisations on sustainable partnerships in support and development of African tax administrations, systems and institutional capacity; and
- Ensure greater synergy and cooperation in capacity development among all relevant stakeholders in order to reduce duplication and give greater support to African Tax Administrations.

Member Countries

Namibia joined ATAF on 4 November 2010.

Other member countries include:

Benin, Botswana, Cameroon, Chad, Côte d'Ivoire, Egypt, Eritrea, Gabon, Gambia, Ghana, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mauritania, Mauritius, Morocco, Mozambique, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Seychelles, South Africa, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

Information obtained from http://www.ataftax.net/

Give us feedback

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

Tax Calendar— July 2011

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
31			1 PwC Bitesize - Risk assessments by Internal Audit	2	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20 PAYE payment Import VAT returns	21	22	23
24	25 VAT returns (Category B)	26	27	28	29 * Social Security payment	30

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Mining Royalties

Royalties are levied in terms of the Prospecting and Mining Act as a percentage of the market value of the minerals extracted by licence holders in the course of finding or mining any mineral or group of minerals. The rates are determined as follows:

Group of Minerals	Royalty Percentage
Precious metals/ Base and rare metals	3%
Semi-precious stones/Industrial metals/Non-Nuclear fuel minerals	2%
Nuclear fuel minerals	3% - 6%

Penalties

Tax Area	Reason	Penalty	Interest
Persons			
1st Provisional tax	Late submission	None	None
	Late payment	10%	20%
2nd Provisional tax	Late submission/under-estimation	20%	20%
	Late payment	10%	20%
Income tax Return	Late submission	10%	20%
	Late payment	None	20%
	Omission/incorrect statement	Up to 200%	20%
Companies			
Employees Tax	Late submission	None	None
	Late payment/ failure to withhold PAYE	10%	20%
Withholding Tax	Late payment	10%	20%
VAT & Import VAT	Late submission	N$100 per day	20%
	Late payment	10%	20%

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