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Special Edition

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Tax First
Special Edition

# Proposed amendments to tax laws and the introduction of an export levy

On the 21st of July 2011, Namibia's Minister of Finance Mrs Saara Kuugongelwa-Amadhila issued a press release of the proposed amendments to tax laws and the introduction of an export levy.

No draft legislation is currently available.

The following were contained in the press release:

## 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 that the market value of assets for recoupment purposes;
- Improve the integrity of the tax system by preventing expenditure and losses normally associated with suspect activities (disguised hobbies, etc) from being deducted as a means 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 on 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 that 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 Namibian resident to a non-resident person, who does not have a permanent establishment in Namibia or services rendered by the non-resident person in Namibia or outside Namibia to the Namibian resident. 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.
- Increase the tax rate for mining companies other than diamond mining from 37,5% to 44% (40% plus a surcharge of 10%)

## 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 registration cancellation, over a period of six months from effective date of the amendments.
- Provide for the Tax tribunal to be established by the Minister of Finance to consider VAT appeal cases;
- Abolish VAT refunds to tourist and non-resident persons who purchased raw minerals, unprocessed fish, livestock, game, crude oil or gas in Namibia and the export of goods from Namibia;
- Remove the supply of medical and paramedical services from the zero-rate schedule 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;

# Proposed amendments to tax laws and the introduction of an export levy (continued)

### Value Added Tax (continues)

- Introduce a standard rate (15%) on supply of livestock as is the case with game; and
- Abolish the zero rating and to introduce a standard rate (15%) on the export of raw minerals, unprocessed fish, livestock, game, crude oil and gas when a registered person consigns or deliver these goods to an address outside Namibia. The local supply of these goods will also be subject to a standard rate of 15%.

### Stamp duty

- The Stamp Duty Act, 1993 (15 of 1993) as amended 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.
- 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 fro duty on failure of payment of transfer duty where shares or membership interest is acquired in a company, trust or close corporation that holds property. 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. 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 for minerals.

### Export Levy

Further to these amendments, a new law is proposed to introduce a levy and administrative provisions pertaining to the export of raw material, unprocessed fish, game, crude oil and gas. The levy will apply at a rate of 5%, which will be co-elected by the Directorate Customs and Excise at the border posts

The value of export will be the amount of the consideration of the goods. If the exporter acquires the goods for no consideration or fro a consideration in money that is less that the open market value of the goods than the amount to determine the levy will be the open market value of the goods.

### Conclusion

The Ministry of Finance will also embark on other administrative measures to ensure an effective and efficient tax administration system. The following measures will be introduced, namely:

- To replace the existing IT system with a modern integrated tax administration IT system.
- To expand the existing Large Taxpayer Office;
- To introduce a fully fledged self-assessment system;
- To embark an education program to educate taxpayers on various aspects of tax matters; and
- To build audit capacity internally.

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

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