

A giraffe stands in a savanna landscape under a cloudy sky. The giraffe is positioned on the right side of the frame, facing left. The background features a vast, flat plain with sparse vegetation and distant mountains. A yellow rectangular frame is overlaid on the left side of the image, containing text.

**Finance Act, 2023**

**Accelerating Economic Recovery, Climate Change  
Adaptation & Mitigation and Enhancing Productive  
Sectors for Improved Livelihood.**

## Finance Act, 2023 Analysis

### Executive summary

On 26 June 2023, the Tanzanian Parliament passed the Finance Bill, 2023 (the Bill). On 30 June, the Bill was assented to by the President to become the Finance Act, 2023 (the Act). All changes introduced by the Act are effective from 1 July 2023, unless indicated otherwise.

This Alert summarizes the key changes included in the Act as well as modifications from the Bill and the budget speech presented by the Minister for Finance and Planning.

### Detailed discussion

#### Income Tax Act

##### *Change in control rules*

The Act has amended the change in control rules by excluding from taxation a change in underlying ownership that;

- is a result of allotment of a new membership interest of the entity; or
- is solely a result of transfer of a membership interest of a resident entity to another resident person.

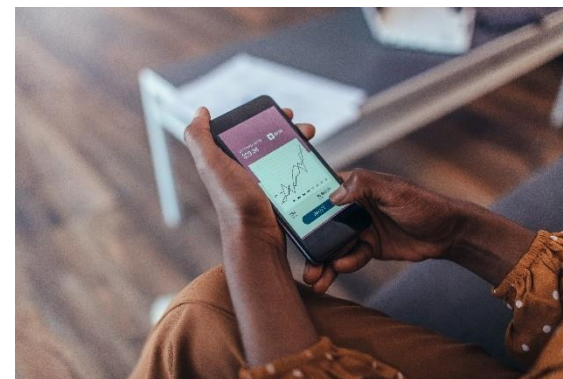
The amendment has now excluded from tax, capital investments made in a resident entity that result in a change in the underlying ownership of an entity by reason of the issuance of new shares. This is a welcome change as it will foster investment attractions in the country. The amendment is however not clear in circumstances involving the allotment of new shares in other group entities that indirectly own the Tanzanian entity.

There is in addition a change pertaining to the transfer of a membership interest. The amendment has eliminated the potential effect of double taxation in circumstances involving the direct disposal of shares in a resident entity that results in a change in the underlying ownership of the entity. However, the change does not cover shares transferred to non-resident persons. The direct transfer of shares to non-resident persons in

a resident entity may still trigger change in control consequences where other conditions are met.

##### *Digital service tax (DST)*

There is an imposition of income tax on payments made to non-resident persons by individuals other than in the conducting of business in respect of electronic services. Further, the Act has extended the time for filing a tax return by a non-resident person to the twentieth day of the month after the end of the month to which the return relates.



Payments received by non-resident persons in respect of electronic services consumed by or attributable to an individual in Tanzania are sourced in Tanzania regardless of the place of payment, provided that the consumption of the electronic services by an individual is not made during business.

Previously the scope of DST covered services rendered through a digital marketplace (i.e., a platform that enables direct interaction between buyers and sellers of electronic services). In addition, a non-resident person falling under the DST requirement was required to file a return not later than the seventh day after the end of the month.

The amendments will enhance a proper implementation of taxation of DST through more clarity on the scope of DST. Payments made by individuals during business are excluded from DST.

### ***Income tax on realization of interest in land or building***

Introduction of a single instalment tax at a rate of 3% on the incomings or approved value of the asset, whichever is greater, on disposal of an interest in land or building by a resident person who does not have records of costs of the asset.

The amendment will speed up transactions of the assets in question and reduce the time that has always been spent in discussions with the revenue authority pertaining to costs of the assets. However, on the other hand this may have the impact of high tax liabilities by reason of charging the incomings or the approved value of the asset without an ascertainment of the cost an asset.

### ***Withholding tax***

The following changes have been made in relation to withholding tax requirement.

- Removal from the withholding tax obligation of rental payments made by individuals in respect of residential premises. The amendment comes following the challenges experienced in implementation of the requirement since its introduction in the year 2022.
- Introduction of a 2% final withholding tax on payments for purchase of precious metals, gemstones and other precious stones supplied by the holder of a primary mining license or artisanal miner. The amendment could have an impact in resolving the challenges experienced in collection of taxes from miners.
- Introduction of a 10% final withholding tax on payments made to a resident person in respect of verified carbon emission reductions. The amendment has widened the tax base and may have the impact of increasing tax revenues. However, in light of the fees already introduced in the area of carbon credits through the Environmental Management (Control and Management of

Carbon Trading) Regulations, 2022; the amendment may negatively impact the Government's efforts in reducing carbon emissions.



### ***Income tax exemption***

The following are exempted from income tax:

- Gains derived from the internal restructuring of mining companies pursuant to the requirement of a framework agreement entered between the Government and investor to form a partnership entity.
- Amounts derived by the National Health Insurance Fund from investment returns on fixed deposits, treasury bonds, treasury bills or dividends.

### ***Presumptive tax regime***

Entities engaged in the business of transportation of passengers and goods are now taxed under the normal corporate income tax rules. In cases of individuals whose turnover does not exceed TZS. 100 million, these will be taxed in accordance with the prevailing presumptive income tax rates.

The Act has revised presumptive income tax rates for transporters of passengers and goods applicable to individuals whose turnover in a year do not exceed TZS. 100 million. New presumptive income tax rates have also been introduced for tour service and private hire vehicles.





Class A: Passenger Service Vehicles		
SN	Number of Passengers	Tax Payable (TZS)
1	Up to 15	250,000
2	16 to 25	550,000
3	26 to 45	1,100,000
4	46 to 65	1,600,000
5	Above 65	2,200,000

Class B: Tour Service Vehicle		
SN	Number of Tourists	Tax Payable (TZS)
1	Up to 15	650,000
2	16 to 25	900,000
3	26 to 45	1,300,000
4	46 to 65	1,800,000
5	Above 65	2,400,000

Class C: Goods Carrying Vehicles		
SN	Capacity (Tones)	Tax Payable (TZS)
1	Less than 1	250,000
2	1 to 5	500,000
3	6 to 10	750,000
4	11 to 15	1,100,000
5	16 to 20	1,300,000
6	21 to 25	1,650,000
7	26 to 30	1,900,000
8	More than 30	2,200,000

Class D: Private Hire Service Vehicles		
S/N	Category of Vehicles	Tax Payable (TZS)
1	Motorcycle	65,000
2	Tricycle	120,000
3	Taxi	180,000
4	Ride Hailing	350,000
5	Ride Sharing	450,000
6.	Special Hire	750,000

In 2022, the Income Tax Act was amended to introduce a special tax regime for persons engaged in the business of transportation of passengers and goods. The regime has now been abolished through the Act



## **Value-Added Tax**

### ***Invoice requirements***

The following changes have been made with respect to invoice requirements:

- 'Fiscal receipt' is now defined to have a meaning as ascribed under the Tax Administration Act. That is, a receipt or invoice issued by using a fiscal device, Government electronic payment gateway system or any other electronic system approved by the commissioner general for Tanzania Revenue Authority (CG).
- The conditions which had been placed in the law on the requirements for a tax invoice to support an input tax credit or a refund claim have now been repealed. Effective from 1 July 2023, a credit for input tax or a claim for refund should be supported by a fiscal receipt.



### ***VAT deferment on capital goods***

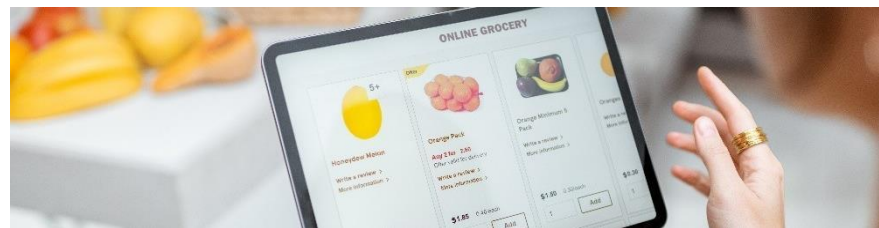
The following changes have been made with respect to VAT deferment on capital goods:

- Extend the application of VAT deferment on capital goods to cover locally manufactured goods. Previously, VAT deferment was only applicable on imported capital goods as well as trailers and road tractors for semitrailers (heading 87.16 and HS Code 8701.20.90) locally manufactured or assembled in a customs bonded warehouse.

- To cease the application of VAT deferment on imported capital goods from 30 June 2026. The amendment may have a positive impact in boosting local production of capital goods. However, it may also pose a challenge in case of incapacity by local manufacturers to produce capital goods.
- A person approved with VAT deferment shall be required to treat the tax payable on locally manufactured taxable supplies or imports as if these constituted output VAT payable by the person in the tax period in which the locally manufactured goods were supplied or imported goods were entered for home consumption.
- Goods purchased or imported for resale in the ordinary course of a person's economic activity do not qualify for VAT deferment, whether in or not in the state in which the goods were purchased or imported.

### ***Electronic Services***

The definition of 'electronic services' has been extended to include online intermediation and online advertisement services.



### ***Zero-rated supplies***

A supply of locally manufactured garments made from locally grown cotton is zero rated for a period of one year from 1 July 2023 to 30 June 2024. The amendment will promote local production of cotton and manufactured garments. However, this may pose a challenge in its

implementation on the ability to distinguish garments which are locally manufactured from locally grown cotton or otherwise.

Extending the period for zero rating of supplies of locally manufactured fertilizers until 30 June 2024. The amendment will boost the local manufacture of fertilizers and lower the costs of farming through reduced prices of fertilizers.

### ***Input tax credit***

Amendment of the Value Added Tax (VAT) Act to provide clarity on the timing of input tax credits. Previously, Section 69 of the VAT Act had a reference to Section 70 which provides for computation of partial input tax credit by a taxable person who supplies both taxable and exempt supplies. However, the proper reference in Section 69 should have been Section 68 of the VAT Act (as currently amended by the Act) which is the provision that provides for a credit for input tax.

### ***VAT exemptions***

#### ➤ *Exemptions upon application to CG*

The CG is empowered to grant VAT exemptions on importation of the following:

- Raw materials of polymers of propylene or of other olefins, in primary forms (HS code 39.02) and polyacetals, other polyethers and epoxide resins, in primary forms; polycarbonates, alkyd resins, polyallyl esters and other polyesters, in primary forms (HS code 39.07) to be used solely in the manufacturing of packaging materials of pharmaceutical products.
- Prefabricated structures or supply of locally manufactured prefabricated structures (HS code 9406.20.90) to be used solely in poultry farming.

Persons entitled to apply for the above VAT exemptions are local manufacturers of packaging materials of pharmaceutical products or engaged in poultry farming in mainland Tanzania and have performance agreements with the Government.

#### ➤ *Exemptions on imports and local supplies*

Imports and supplies of the following items are exempted from VAT.

- Raw materials (benzalkonium chloride and Glutaraldehyde) of HS Code 2916.32.00 for the manufacture of insecticides and acaricides which have been approved by the relevant Minister.
- A sale of a house of a value not exceeding fifty million shillings by a real estate developer
- Supply of precious metals, gemstones, and other precious stones at refineries, buying stations or mineral and gem houses designated by the mining commission.
- A supply of double refined edible oil from locally grown seeds by a local manufacturer until 30 June 2024.
- A supply of automobile accessories used in the conversion of motor vehicle fuel system to natural gas or electricity system to persons engaged in the conversion of such motor vehicles.
- Importation of moulds by a local manufacturer of pharmaceutical for exclusive use in manufacturing pharmaceutical products in Mainland Tanzania.
- A supply of aircraft, aircraft engines, aircraft parts and aircraft maintenance to a local operator of air transportation. However, the VAT exemption on importation of aircraft, aircraft engines or parts by a local operator of air transportation has been abolished.



The Act has also amended the existing exemptions in the VAT Act to align the H.S. codes with the current version of the H.S. Codes as set out in the East African Community Common External Tariff, 2022.

### **Tax Administration Act**

#### ***Primary data server***

A primary data server is now defined to mean a physical, virtual or any other server which stores data that is created or collected by a taxable or liable person in the ordinary course of business. The definition however contradicts the law with respect to virtual server. All persons who store data in electronic form are now required to maintain a primary data server in Tanzania effectively from 1 January 2024.



The amendment has now provided some clarity which will assist in its implementation. In addition, the amendment will be effective from 1 January 2024 in order to give room for businesses to align internally on their investments on Information Communication Technology (ICT) infrastructures. However, there are still uncertainties. While the Tax Administration Act requires maintaining in Tanzania of a primary data server for storage of data in electronic form, reference to virtual server in the definition encompasses the possibility of the server being outside Tanzania.

#### ***Application for refund***

*The time limit of an application for refund for tax paid in excess* has been extended to cover the date a tax decision or other decision giving rise to a tax overpayment is made. Previously, the time limit for an application for refund was three years from the date of payment of tax in excess.

Through the above changes, the date of a tax decision or other decision (example, determination of objections, decisions of Tax Revenue Appeals Board, Tax Revenue Appeals Tribunal or Court of Appeal of Tanzania)

that result to a tax overpayment shall be considered in determining the three years' limit of an application for refund.

#### ***Storage facility***

The following definitions are provided with respect to a storage facility.

- A 'storage facility' means a warehouse, go-down or any other storage facility, which is used to keep own or other persons' goods for business purposes, provided that such warehouse, go-down or other facility is not part of a shop, factory, industry, or farm; and
- An 'owner' means a person who establishes or operates and is in control of the facility and possession of the storage facility or a person to whom the storage facility has been leased or sub-let to.

The above definitions have provided clarity on the requirement for registration of storage facilities on the kinds of storage facilities that are required to be registered as well as persons who are required to comply. Following its introduction to the law through the Finance Act, 2022; the requirement for registration of a storage facility raised several dilemmas in its implementation due to the absence of the above definitions.

#### ***Fine for failure to use fiscal device***

The following fines are now applicable with respect to failure to acquire or use a fiscal device or failure to demand a fiscal receipt.

- Failure to acquire and use a fiscal device or failure to issue a fiscal receipt attracts a fine of 20% of the value of goods sold or services rendered, or TZS 1,500,000, whichever is greater.
- A fine of 20% of the tax evaded or TZS 30,000, whichever is greater, is applicable upon failure to demand a fiscal receipt.

#### ***Disclosure of information on contracted services***

An entity engaged in construction or extractive industry is now required to disclose to the CG the names of all persons contracted and

subcontracted during performance of their duties or business or carrying out of any project within thirty days from the date of execution of the contract for contracted or subcontracted services. Previously, no timeline was provided for submission of the information to CG.

However, the CG has not prescribed any forms or manner of submission of the information.



### **The Excise (Management and Tariff) Act**

#### *Periodic adjustments*

Excise duty rates may be adjusted every after a period of three years from 2023/24 financial year. Previously, excise duty rates were adjusted annually depending on inflationary rate or other key macro-economic indicators.

The amendment will assist in ensuring certainty on the application of excise duty rates than in the previous system where the rates were adjusted annually.

#### *Adjustment of excise duty rate*

The Fourth Schedule to the Act is amended to adjust excise duty rates on a variety of goods including but not limited to the following;

- An increase of excise duty rate by 10% on soft drinks such as mineral water and juices; and by 20% on beer. The amendment may have the impact of reducing the demand of these products and ultimately affect the Government's efforts in increasing revenue.

- Excise duty at a rate of TZS 20 per kg of cement locally manufactured or imported. The amendment may have adverse impacts in construction activities due to increase in costs.
- Excise duty at a rate of 30% on cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes under HS code 2402.90.00.
- Excise duty at a rate of 30% on electronic cigarettes and personal electric vaporising devices under HS code 8543.40.10 and HS code 8543.40.90 respectively.
- Excise duty at a rate of 30% on smoking pipes (including pipe bowls) and cigar or cigarette holders, and parts thereof under HS code 9614.00.00.
- Excise duty at a rate of 10% on various motor vehicles for transportation of ten or more persons, under heading 87.02.
- Excise duty on various motor cars and other motor vehicles principally designed for transportation of persons at a rate of 5% for those with cylinder capacity exceeding 1000cc but not exceeding 2000cc and 10% for those with cylinder capacity exceeding 2000cc under heading 87.03.

### **The Vocational Education and Training Act**

The following changes have been made with respect to Skills Development Levy (SDL).

- Reduction of the SDL rate from 4% to 3.5%.
- Removal of the obligation to file SDL returns for an employer who is not under obligation of paying SDL.
- The minister for finance has been granted powers to exempt any person from paying SDL upon consultation with the



Minister for Education provided that the exemption is in the public interest.

The above changes will reduce costs to employers. In addition, the removal of the obligation to file SDL returns for an employer who is not required to pay the levy will reduce an administrative burden to such employers.

### **Changes in other laws**

The Act has also amended the following laws:

#### **The Mining Act**

The following changes are made in the Act

- Exempt refineries from payment of inspection fee of 1%.
- Reduction of royalty rate for salt from 3% to 1%.

#### **The Gaming Act**

The following terms have been defined in the Act.

- “Commercial gaming undertaking” means any gaming activity which is subject to gaming tax.
- “Gross gaming revenue” means collective amount of wagering or staking placed by players minus the collective amount of winnings paid out to players.

Gaming licenses for operations of commercial gaming undertakings are now issued to companies whose paid up share capital is owned by Tanzanian citizens by at least 5%.

#### **The Export Tax Act**

An export of raw hides and skin by an investor whose commercial undertaking in an Export Processing Zone is export of meat shall not be liable to an export tax.

#### **The Electronic and Postal Communications Act**

Airtime levy has been removed.

#### **The National Payment Systems Act**

The Act is amended to remove a levy on electronic transfer of money. The levy is now only applicable on electronic money withdrawal transactions.



#### **The Local Government Finance Act**

The following changes have been made.

- Inclusion of holders of electronic money issuance license as among entities required to pay service levy.
- The Tanzania Revenue Authority (TRA) will remain with the obligation to evaluate, assess, collect, and account for property rates until 31 December 2023 whereas the obligation shall be vested on the local government authorities.
- The mandate of collecting and accounting for advertisement fees on billboards, posters and hoarding is vested in the local government authority.

#### **The Local Government Authorities (Rating) Act**

The following changes have been made.

- Mud huts, thatched houses, mud houses and such other similar houses used for residential purposes are excluded from rateable properties.
- Increase of the applicable rates for property tax as follows.

- a. An increase from TZS 12,000 to TZS 18,000 of property rate situated in city council, municipal council, town council and district council.
- b. An increase from TZS 60,000 to TZS 90,000 of property rate each storey in a storey building in city, municipal and town councils and a storey building in a district council.

#### **The Road and Fuel Tolls Act**

An increase in the rate of road and fuel toll by TZS 100 from TZS 413 to TZS 513 per litre of petrol and diesel.

#### **Foreign Vehicles Transit Charges Act**

Transit charge for a foreign registered vehicle from a country that charges a higher rate than the one set out in the Act, shall be charged at the rate applicable in that respective country.

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