

GOVERNMENT OF ZAMBIA

ACT

No. 11 of 2017

I hereby signify my assent to the Bill

Date of Assent: 19th December, 2017

An Act to amend the Property Transfer Tax Act.

[22nd December, 2017

ENACTED by the Parliament of Zambia.

1. (1) This Act may be cited as the Property Transfer Tax (Amendment) Act, 2017, and shall be read as one with the Property Transfer Tax Act, in this Act referred to as the principal Act.

(2) This Act shall come into operation on 1st January, 2018.

2. Section 2(1) of the principal Act is amended—

(a) by the insertion of the following definitions in the appropriate places:

“intellectual property” includes a patent, trade mark, copyright or industrial design; and

“related company” includes—

(a) companies connected directly or indirectly through shareholding or equity;

(b) any joint venture owned or operated jointly with or an unrelated company;

(c) connected companies; or

(d) companies connected through management and control; and

(b) in the definition of “property” by the—

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Amendment of section 2

(i) deletion of paragraph (b) and the substitution therefor of the following:

(b) a share issued by a company incorporated in the Republic or a share issued by a company incorporated outside the Republic where the company directly or indirectly owns at least ten percent of the shares in a company incorporated in the Republic.; and

(ii) insertion of the following paragraph immediately after paragraph (c):

(d) intellectual property;

Amendment
of section 4

3. Section 4 of the principal Act is amended by the—

(a) insertion of the following new subsection immediately after 4(1):

(1A) in the case of the transfer of a share issued by a company incorporated outside the Republic where that company directly or indirectly owns at least ten percent of a company incorporated in Zambia, tax shall be charged and collected from the Zambian incorporated company.; and

(b) insertion of the following new paragraph immediately after paragraph (c)—

(d) five percent of the realised value in respect of intellectual property.

Amendment
of section 5

4. Section 5 of the principal Act is amended by the—

(a) deletion of subsection (2) and the substitution therefor of the following:

(2) Where the property to be valued is a share issued by a company incorporated in the Republic, the realised value shall be the price at which it could, at the time of its transfer, reasonably have been sold on the open market as determined by the Commissioner-General, or its nominal value, whichever is the greater.;

(b) insertion of the following new subsections immediately after subsection (2):

(2A) Where the property to be valued is a share issued by a company incorporated outside the Republic that directly or indirectly owns at least ten

percent of a company incorporated in Zambia, the realised value shall be the proportion that the value of the Zambian entity bears to the value of the transferred shares.

(2B) For the purposes of this Act, a share, that is registered outside the Republic and that is transferred by a related company is deemed to have been a transfer by a company incorporated in Zambia if before the transaction, the company incorporated in Zambia was indirectly owned by a related company.

(2C) The Commissioner-General, in determining the realised value for shares, may make adjustments in accordance with the provisions of sections 97A, 97AA, 97C and Paragraph 22A of the Fifth Schedule to the Income Tax Act.; and

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(c) the deletion of subsection (3) and the substitution thereof of the following:

(3) Where the property to be valued is intellectual property or a mining right or an interest in a mining right, the realised value of the intellectual property or mining right or interest shall be the actual price of the intellectual property or mining right or interest or as determined by the Commissioner-General, whichever is higher.

5. Section 11 of the principal Act is amended by the insertion of the following subsection immediately after subsection (3):

Amendment of section 11

(4) The Commissioner-General may remit the whole or part of any penalty and interest due under this Section.

6. The principal Act is amended by the insertion of the following section immediately after section 12 A:

Insertion of section 12B

12B (1)A company shall, within one month after another company has become related to it, lodge with the Commissioner-General a notice of that fact together with particulars identifying that company.

Disclosure of information

(2) If a company fails to comply with this section, the company, and each officer in default, commits an offence and is liable, on conviction to a penalty not exceeding ten thousand penalty units for each day that the failure continues.

