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Analysis of Finance Act 2022

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Following parliamentary approval of the 2022/2023 National Budget, the Parliament of the United Republic of Tanzania has enacted the Finance Act, 2022 (hereinafter referred to as "the Finance Act") dated 30 June 2022 to impose and alter certain taxes, duties, levies, fees and to amend certain written laws relating to the collection and management of public revenues.

The Finance Act is effective from 1 July 2022.

This newsletter supplements the analysis and insight in our Budget brief and Finance Bill summary. This document is not exhaustive but only summarises the key changes introduced by the Finance Act 2022.

01

Income Tax

The Finance Act has introduced the following changes to the Income Tax Act:

Widening of the definition of the word "Business" to include transactions carried out through the internet or digital market place

- The definition of the word "Business" has been broadened to include a transaction or activity carried out through the internet or an electronic means including an electronic service or transaction conducted in the digital market place regardless of the manner in which such transaction is carried out.
- The term "digital market place" has been defined to mean a platform which enables direct interaction between buyers and sellers of goods and services through electronic means. On the other hand, the definition of the term "electronic services" is borrowed from the VAT Act 2014.
- This means that transactions such as websites, webhosting, remote maintenance of programmes and equipment, software and the updating thereof, images, text, and information, access to databases, self-education packages, music, films, games, broadcasts and events including broadcast television, will now be subject to taxation in Tanzania.

More power vested to the Minister to provide exemption from income tax to special strategic investment projects approved by the National Investment Steering Committee (NISC)

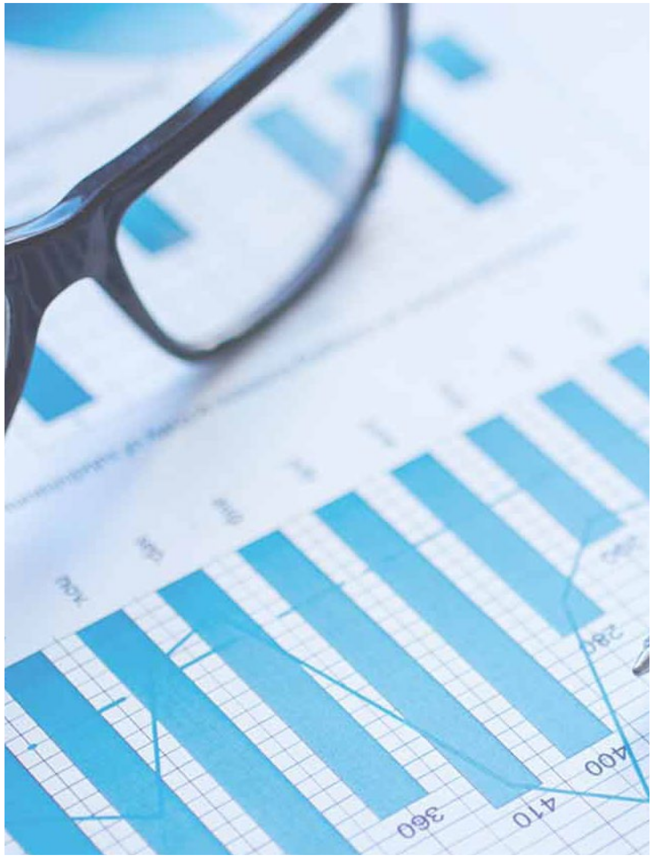
- The Finance Act has empowered the Minister responsible for finance, to grant exemption from income tax in respect of a special strategic investment approved by the NISC under the Tanzania Investment Act, after being approved by the Cabinet. This only applies where the agreements provide for such income tax exemption.
- This is an extension of the Minister's power following last year's authority to exempt grant agreements, non-concessional or concessional loan agreements between the Government of the United Republic and a donor or lender.
- Therefore, this has widened the scope of the Minister's powers and will thus, assist to fast-track implementation of investments and harmonise the provisions of the Investment Act and the Income Tax Act.

Thin capitalisation rules made more aggressive – the definition of the term "equity" now limited to paid-up share capital only

- The Finance Act has made changes to the definition of the term "Equity" for thin capitalisation purposes. Amounts of paid-up share premium and retained earnings have now been excluded. Therefore, going forward only paid-up share capital will be considered as Equity for purposes of calculating the debt-to-equity ratio for thin capitalisation purposes.
- With this change that was not mentioned earlier in the Finance Bill, most exempt-controlled resident entities will likely be thinly capitalised, hence interest expenses incurred will be subjected to tax.

Recognition of the "margin" earned from alternative financing arrangement in the same manner as "interest"

- The Finance Act has introduced a provision that, where an alternative financing arrangement approved by the Bank of Tanzania is payable as cost plus margin, the margin shall be treated in the same manner as interest. From the Income Tax Act, interest/margin earned should be included either as business income or investment income for taxation purposes.
- The term "alternative financing arrangement" has been defined to mean any financial arrangement approved by the Bank of Tanzania other than conventional financial arrangements.



Special taxation regime for resident persons engaged in transportation of passengers or goods

- The Finance Act has categorized the business of transportation of passengers or goods under a special taxation scheme whereby the resident person will be taxed as per the below table:

Category of Vehicles	Tax Payable (TZS)
Category A: Goods Vehicle	
Load Vehicle between 0 - 1 Tonne	180,000
Load Vehicle between 1 - 5 Tonnes	450,000
Load Vehicle between 6 - 10 Tonnes	720,000
Load Vehicle between 11 - 15 Tonnes	1,710,000
Load Vehicle between 16 - 20 Tonnes	2,430,000
Load Vehicle between 21 - 25 Tonnes	2,610,000
Load vehicle of above 25 Tonnes	2,790,000
Category B: Passenger Vehicle	
Bus and other similar vehicle with seating capacity below 10 passengers	180,000
Bus with seating capacity above 10 but below 16 passengers	450,000
Bus with seating capacity from 16 up to 30 passengers	720,000
Bus with seating capacity up to 32 passengers	1,710,000
Ordinary bus	2,430,000
Semi-luxury bus	2,610,000
Luxury bus	2,790,000

- The Finance Act instructs that the above tax payable shall be regarded as the person's advance tax and that all persons doing such business are urged to issue electronic fiscal receipts as prescribed by the Commissioner.

- With this change, all persons (whether individuals or corporations) dealing with either transportation of passengers or goods are now captured unlike how the proposal was worded in the Finance Bill, which seemed to specifically target trucks owned by individuals.

- This raises questions and challenges about how it is going to work especially where some vehicles are owned by the company/individual but not operating. Another challenge is that no clarification has been given on whether the advance tax will be paid in the same manner as instalment taxes or not.

- Since the above said advance tax is fixed based on carrying capacity of the vehicle, as opposed to actual performance of the business, it is likely that in low season the owners of the vehicles may end up overpaying taxes. On the other hand, should the business perform well for the year, there might be a risk of the advance tax paid being on the lower side, hence subjected to underestimation penalty.

- In addition, the Finance Act 2022 makes it mandatory for the business to keep records and prepare audited accounts (that is, such businesses are totally removed from the presumptive tax regime) because the deductibility of expenses will be subject to the general deductibility criteria under Sections 11, 12, 13, 14, 15, 16 and 17 of the Income Tax Act, 2004.

- Where such businesses make losses for three consecutive years, they will be required to pay Alternative Minimum Tax at the rate of 0.5% of turnover.

Residency status of corporations now triggered by management and control being done through electronic means in the United Republic

- The Finance Act has given more clarity of the triggering aspects for a corporation to be resident in Tanzania. As such, the residency status is triggered from whether the management and control of the entity is done physically or through electronic means, in the United Republic.

- This aims to address the current technological changes in the way businesses are managed and controlled. This will increase the incidences of creating a Permanent Establishment (PE) in the United Republic of Tanzania.

The source rule extended to cover payments made to foreign investors who harness natural resources

- The Finance Act has added payments made to foreign investors who harness natural resources located alongside the border or within the country, as having a source in the United Republic for purposes of widening the tax base.

- This change will mean that the natural resource payments will be liable for WHT.

Reduction of unallocated income for Resident Financial Institution under CFC rules

- The Finance Act has added a stipulation that for resident financial institutions, the amount of distribution determined by the Bank of Tanzania as not distributable can now be deducted when calculating the unallocated income under the Controlled Foreign Corporation (CFC) rules.

- With this change, the amount for a resident financial institution that will be deemed as distribution for the year of income will reduce, hence less WHT obligation on dividend, if the Resident Financial Institution shall qualify under the CFC rules.

Income tax paid in Mainland Tanzania is now creditable in Tanzania Zanzibar. This also applies vice versa

- The Finance Act has provided guidance on income tax credits between Tanzania Mainland and Tanzania Zanzibar by allowing resident persons, other than partnerships, conducting business in both parts of the Union, to claim tax credits for any income tax paid in Tanzania Mainland or Tanzania Zanzibar, as the case may be.

- This change will foster business operations between entities that are now required to incorporate separate entities in both Tanzania Mainland and Tanzania Zanzibar and as such will reduce instances of double taxation by allowing tax credit utilization.

Exemption of interest income on corporate and municipal bonds from WHT

- The Finance Act has exempted WHT on the interest paid to a holder of corporate and municipal bonds issued and listed on the Dar es Salaam Stock Exchange (DSE) from 1st July 2022, aiming at increasing alternative sources for funding Government's development projects.

Exemption for individuals to withhold tax from investment returns now abolished

- The Finance Act abolished the exemption to withhold tax by individuals (not conducting business) when making payment in relation to investment returns. From the Income Tax Act, investment returns include payments for dividend, interest, natural resource payment, rent or royalty.

- The aim of this change as understood from the Budget speech and the Finance Act is to now make individuals (tenants) liable to withhold tax on rent paid for residential houses, apartments, and commercial premises. However, scrutiny of this change, will also include the above-mentioned investment returns covered in that section.

- The only challenge foreseen on this is on the modality for collecting and remitting such WHT since the said individuals are normally not withholding tax agents.

Non-resident digital services providers to pay tax at a rate of 2% on payments received from individuals

- The Finance Act has subjected digital services payments made by individuals to non-resident persons to tax at a rate of 2% on the amount (excluding applicable VAT).

- This tax will be payable by a way of single instalment monthly by the non-resident persons by way of filing monthly returns, to the TRA on or before 7th day of the subsequent month. In addition, they will not be required to file final return of income in the United Republic.

- Furthermore, it is noted that the Minister responsible for finance may issue Regulations on this subject matter for assessing or collecting the income tax or giving effect to the proposed tax.

- Even though, this change is intended to expand the tax base and uphold equity principles of taxation with local businesses, we foresee that this change will make it more expensive to acquire digital services as the prices of these services are likely to increase.

The bands for presumptive income tax have been amended but professional service providers have been removed from this scheme

The Finance Act has adjusted the upper band of the presumptive tax rate to now include a rate of 3.5% for taxpayers with a turnover between TZS 11 million and TZS 100 million as shown in the table below.

Total income	Previous rate payable		Proposed rate payable
	Where taxpayers do not maintain records	Where taxpayers maintain the records	
Where turnover exceeds TZS 11,000,000, but does not exceed TZS 14,000,000	TZS 450,000	TZS 230,000 plus 3% of turnover in excess of TZS 11,000,000	3.5% of turnover
Where turnover exceeds TZS 14,000,000, but does not exceed TZS 100,000,000	N/A	TZS 450,000 plus 3.5% of turnover in excess of TZS 14,000,000	

- Furthermore, individuals dealing with professional, technical, management, construction and training services business are now excluded from using the presumptive income tax scheme.
- In turn, this translates to such individuals being required to use the normal rates of income tax for individuals which will also require them to submit their final returns of income together with certified financial statements as per the requirements of Section 91 of the Income Tax Act.

Reduction of WHT rate to 10% on royalty payment to non-resident providers in the film industry

- The Finance Act has reduced the WHT rate on royalty payments to non-resident service providers in the film industry.
- Such royalty payment as defined in the Income Tax Act, include for the use of, or right to use, a cinematography film, videotape, sound recording or any other like medium.
- The aim of the amendments is to promote employment and transfer of knowledge and skills in the film industry.

Exemption of Income on Government's contractual obligations from Tax

The Finance Act has exempted the below listed income sources from tax with the aim of ensuring implementation of Government's contractual obligations and facilitate timely transfer of mineral rights and mineral information:

i. amount derived from gain on realisation or transfer of mineral rights and mineral information to a partnership entity formed between the Government and an investor;

ii. amount derived from gain on realisation or transfer of free carried interest shares from a partnership entity to the Government; and

iii. amount derived from gain on realisation or transfer of shares to the Government through the Treasury Registrar.

02

Value Added Tax (VAT)

The Finance Act has introduced the following amendments to the Value Added Tax (VAT) Act:

Exemption of VAT on special strategic investments

- The Finance Act has granted power to the Minister to grant VAT exemption on goods or service supplied for implementation of special strategic investments approved by the NISC under the Tanzania Investment Act. Such exemption will be granted by the Minister upon approval by the Cabinet and by order published in the Gazette.
- This change in the Finance Act aims at promoting investment and to do away with the current inconsistency in granting additional incentives to special strategic investors.

Regulations to prescribe dealing of alternative financing products

- The Finance Act has added a provision that give power to the Minister to make regulations that prescribe the manner and procedures of dealing in loans including alternative financing products approved by the Bank of Tanzania. Alternative financing products has been defined to include any financial product approved by the Bank of Tanzania other than conventional financial products.
- The aim of this change is to align the treatment of alternative financing products and conventional loans, enhance financial inclusion and bring equity in taxation.
- As the Finance Act has been effective from 1st July 2022, it is important for the related regulations to be issued in good time.

Non-residents can now be registered for VAT

- The Finance Act has an additional provision that, where it is not practical to appoint a tax representative for a non-resident who carries on business in Mainland Tanzania without a fixed place, then the non-resident can apply to the Commissioner General to be registered for VAT directly.
- Previously, a non-resident person carrying on business without a fixed place was required to appoint a VAT representative who will be responsible for undertaking all obligations required under the VAT Act.
- Regulations that will shade more light on the modalities of such registration are yet to be issued.
- The change seems geared at simplifying the registration of a non-resident person who provides service in Mainland Tanzania without having a fixed place of business.

Minister has to duly approve the supplies and imports to NGOs for them to qualify for VAT exemptions

- The Finance Act has added a requirement for the Non-Governmental Organisations ("NGOs") to have their supplies and imports of goods and services duly approved by the Minister for purposes of qualifying for VAT exemption.
- With the change, the number of NGOs qualifying for exemption will likely reduce should the Minister not approve such supplies and imports.

Widening the scope of capital goods qualifying for deferment

- The Finance Act has added to the scope of capital goods qualifying for VAT deferment. This includes trailers and road tractors for semitrailers falling under Heading 87.16 and HS Code 8701.20.90 locally manufactured or assembled in a customs bonded warehouse.
- The change will reduce the costs to investors and promote growth of industries in the country.

Amendments to the VAT exemption schedule

– The Finance Act has exempted VAT on supplies and imports as tabulated below:

Item	HS Code
Ear tag	3926.90.90
Ear tag applicators	8456.90.00
Automatic turning table	8207.30.00
Stunning box	8438.50.00
Lessor beam machines	9402.90.90
Agro net	56.08
Unprocessed fruits	0905.10.00
Standing tree	6.02
Fishing nets	3926.90.10
Fishing hooks, reels and lines	9507.20.00, 9507.90.00 and 9507.30.00
Dairy packaging materials	3923.30.00, 4819.10.00, 4819.20.00 and 4819.20.90
A supply of double refined edible oil from locally grown seeds by a local manufacturer for a period of one year from 1st July 2022 to 30th June, 2023	
A supply of raw materials of and packaging materials to be solely and directly used by a local manufacturer of double refined edible oil from locally grown seeds for a period of one year from 1st July 2022 to 30th June, 2023	2836.20.00, 2836.30.00 and 2836.50.00
A supply of sisal ropes	5607.21.00 and 5607.29.00

– Furthermore, the Finance Act has exempted VAT on imports as tabulated below:

Item	HS Code
Raw materials to be solely used and directly used in manufacturing of fertilizers duly certified by the Ministry responsible for industries	2528.00.00, 2710.99.00 and 3505.20.00
Equipment and machinery used and directly used in manufacturing of fertilizers duly certified by the Ministry responsible for industries	Chapter 84 and 85
Soil testing equipment as certified by the Ministry responsible for agricultural	8207.30.00
	9026.10.00, 9031.80.00, 9027.80.00 and 9027.90.00
Moisture meter as certified by the Ministry responsible for agricultural	9031.80.00
Rain gauge for weather stations as certified by the Ministry responsible for agricultural	9023.00.90
PH meters as certified by the Ministry responsible for agricultural	3822.00.90
Tissue culture equipment as certified by the Ministry responsible for agricultural	8419.89.60
Tension meters as certified by the Ministry responsible for agricultural	9031.80.00
Meteorological equipment and machinery by the Tanzania Meteorological Authority.	N/A
Raw materials by a manufacturer of gas cylinders upon signing a performance agreement with the Government of the United Republic.	7229.90.00, 3810.90.00, 3401.19.00, 7904.00.00, 4016.93.00, 8481.10.00 and 8309.90.90

– On the other hand, the Finance Act has abolished the exemption of VAT on the following:

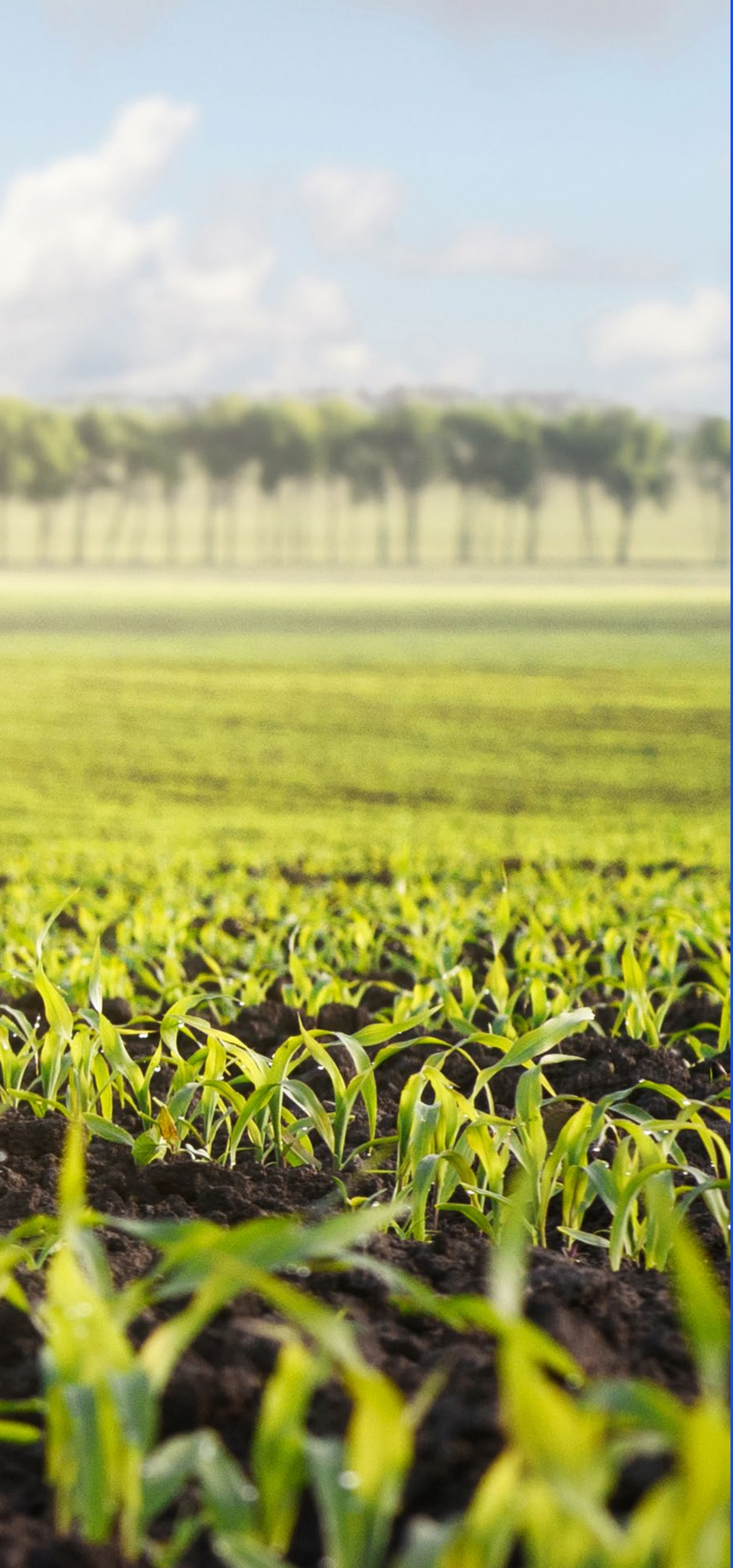
Item	HS Code
Smart phones	8517.12.00
Tablets	8471.30.00 and 8517.12.00
Modems	8517.62.00 or 8517.69.00

– The Finance Act has also made substitutions to VAT exempted supplies and imports as shown below:

Current regime	Proposed change
Unpasteurized or pasteurized cow milk except with additives and long-life milk with HS Code 04.01	Unpasteurized or pasteurized cow milk with HS Code 04.01
Unpasteurized or pasteurized goat milk except with additives and long-life milk with HS Code 04.01	Unpasteurized or pasteurized goat milk with HS Code 04.01
Supplies of arms and ammunitions, parts and accessories thereof, to the armed forces	Importation of arms and ammunition, parts and accessories thereof. equipment and machineries for the official use of the armed forces as certified by the Ministry responsible for security and defence
Air Charter Services	Air Charter Services up to 30th December, 2022

– Likewise, the Finance Act has made substitutions to VAT exempted imports as presented below:

Current regime	Proposed change
An import of machinery of HS Code 8453.10.00 by a local manufacturer of hide and skins for exclusive use in manufacturing leather in Mainland Tanzania	An import of machinery of HS Code 8438.50.00 and 8453.10.00 by a local manufacturer of hides and skins; and a registered abattoir for exclusive use of skinning, dehiding and leather processing in Mainland Tanzania duly certified by the Ministry responsible for livestock or fishery
An import of cold rooms of HS Code 9406.10.10 and 9406.90.10 by a person engaged in horticulture	An import of cold rooms of HS Code 9406.10.10, 9406.90.10 and refrigerated truck of HS Codes 8704.21.90; 8704.22.90; 8704.23.90; 8704.31.90; 8704.32.90; 8704.90.90 by a person engaged in livestock, fishery or agriculture duly certified by the Ministry responsible for livestock, fishery or agriculture



03

Excise Duty

The Finance Act has introduced the following changes to the Excise (Management and Tariff) Act:

Shifting of the penalty for the offence of unregulated denaturing of spirits

- The Finance Act has eliminated the punishment for the offences of denaturing spirits with formulae unprescribed by the Act or denaturing spirits without a licence, from the Excise (Management and Tariff) Act and instead rely on the penalty as now stated in the Tax Administration Act, 2015.
- Initially, the above-mentioned activities resulted in imprisonment for a term not exceeding 3 years or a fine not exceeding TZS 10,000 or both, and forfeiture of any plant, spirits and materials in relation to the offence which was not in harmony with the Tax Administration Act, 2015.
- This amendment harmonises the penalty system in tax laws.

Shifting of the penalty for licensee who contravenes with the Act's regulations on entry of premises and plant

- The Finance Act has eliminated the punishment for contravening with the Act's regulations on entry of premises and plants, from the Excise (Management and Tariff) Act and instead rely on the penalty as stated in the Tax Administration Act, 2015.
- Initially, the offence resulted in imprisonment for a term not exceeding 3 years or a fine not exceeding TZS 10,000 or both and forfeiture of any materials in relation to the offence.
- This amendment harmonises the penalty system in tax laws.

Excise duty on pay-to-view television service, to now include service from terrestrial, satellite or other technology operator

- The Finance Act has included terrestrial infrastructure, satellite or other technology as pay-to-view television service providers, who will be charged 5% excise duty of the dutiable value and the duty shall be payable upon service supply.
- Initially, only pay-to-view television service from licensed cable television network or cable operator was dutiable at the rate of 5%.
- This will expand the tax base by now including pay-to-view television service providers using cable, terrestrial infrastructure, satellite or other technology when supplying the service. However, in turn this may lead to such services being more expensive as this additional cost will be passed to the final consumers.

Good news to exporters of horticultural products

- The Finance Act has exempted excise duty on articles for the conveyance or packing of goods used by exporters of horticulture products, that were once charged at a rate of 5%.
- This change will reduce costs for exporters, encourage entry in the market and increase competitiveness of horticultural products in the international market.

New excisable items

– The Finance Act has introduced new excisable rates and items as highlighted below:

Heading	HS Code	Description	Unit	Current Rate	Proposed Rate
17.04		Sugar confectionary (including white chocolate), not containing cocoa			
	1704.10.00	- chewing gum, whether or not sugar-coated			
		Locally produced	Kg	Nil	Nil
		Imported	Kg	Nil	Tshs 1,000.00
	1704.90.00	- Other			
		Locally produced	Kg	Nil	Nil
		Imported	Kg	Nil	Tshs 1,000.00
18.06		Chocolate and other food preparations containing cocoa			
	1806.31.00	-- filled, Chocolate in divided bars etc filled with cocoa and sugar preparation			
		Locally produced	Kg	Nil	Nil
		Imported	Kg	Nil	Tshs 1,000.00
	1806.32.00	- not filled			
		Locally produced	Kg	Nil	Nil
		Imported	Kg	Nil	Tshs 1,000.00
	1806.90.00	- Other			
		Locally produced	Kg	Nil	Nil
		Imported	Kg	Nil	Tshs 1,000.00
19.05		Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products			
	1905.31.00	-- Sweet biscuits			
		Locally produced	Kg	Nil	Nil
		Imported	Kg	Nil	Tshs 1,000.00
85.07		Electric accumulators, including separators thereof, whether or not rectangular (including square)			
	8507.10.00	Locally produced	u	Nil	5%
		Imported	u	Nil	10%
	8507.10.00	- other lead-acid accumulators			
		Locally produced	u	Nil	5%
		Imported	u	Nil	10%

The Finance Act has introduced excise duty on lead-acid batteries and imported sugar confectionaries so as to expand the tax base and protect consumers' health and the environment.

The Finance Act has amended the definition of the term fiscal device to include any other electronic system as authorized by the Commissioner General.

04

Tax Administration Act

The Finance Act has modified the Tax Administration Act by introducing the following changes:

Electronic systems including mobile phones to issue fiscal receipts or invoice

– The Finance Act has amended the definition of the term fiscal device to include any other electronic system as authorized by the Commissioner General.

– The aim of the amendment is to allow fiscal receipts or fiscal invoices that are now issued through mobile phones and other electronic system to qualify as a valid fiscal receipt or fiscal invoice for tax purposes.

Tax Identification Number for every person aged more than 18 years

– The Finance Act has put a requirement to the Commissioner General to register and issue Tax Identification Number (TIN) to every Tanzanian citizen aged 18 years or above and who has been registered and issued with a National Identification Number (NIDA). The Commissioner General is required to ensure each TIN issued is connected with NIDA.

– The above requirements are to come into operation effectively on 1st January 2023.

Licencing of tax consultants

– The Finance Act has given power to the Commissioner General to licence an individual to act as a tax consultant on behalf of any person for the purposes of discharging the person's obligation in a tax law.

– With exception of an employee or manager of a person, any other person who is not licenced by the Commissioner General as a tax consultant shall not act on behalf of such person or communicate with the Commissioner General on pretext of representing a person on any matter under any tax law.

– This change is aimed at managing the licencing, restriction, functioning and control of tax consultants.

Persons with branches registered in Tanzania Zanzibar are now required to obtain a Zanzibar Registration Number

– The Finance Act has introduced the requirement for registered persons with branches in Tanzania Zanzibar to obtain a Zanzibar Registration Number issued by the Zanzibar Registration Board (ZRB).

– This change is brought about by the requirement under the Zanzibar Companies Act, that post July 2021 instructs companies incorporated under the law applicable in Mainland Tanzania to register a foreign subsidiary company under the law applicable in Tanzania Zanzibar if it establishes a place of business in Zanzibar.

Extension of the due date for maintaining a primary data server in Tanzania

– The Finance Act has extended the due date for a person to maintain in Tanzania a primary date server for the storage of documents electronically to 1 July 2023.

- Before the change, the due date for maintaining a primary data server in Tanzania was on 01 July 2022. The extension of the due date will give more time for liable persons to migrate their servers.

Tax returns to be filed electronically

- The Finance Act has introduced a new Section, 37A, that requires every taxpayer who is required to file a tax return, to do so electronically on or before the due date of filing the respective tax return.

- However, the Act has left room for the Commissioner General under special circumstances to permit a person to file a return manually or by any other means and such permit shall be in writing. The room to file a return manually is likely maintained to allow tax returns that are yet to be electronically incorporated such as excise duty returns to be filed.

- The above introduction is in the spirit of removing the administration burden which was brought by the filing of paper tax returns.

Introduction of registration and monitoring requirements for storage facility

- The Finance Act has introduced a new Section 45A, that requires every person who establishes a storage facility for storing of goods of value in excess of TZS 10 million, to register such facility with the Commissioner General. The owner of the registered facility is required to keep records of all goods stored and report to the Commissioner General on a monthly basis in the manner prescribed by the Commissioner General.

- If the Commissioner General is satisfied that the storage facility has not been registered or goods have been kept without being reported as required, the owner of the facility will be liable to a penalty of TZS 4.5 million and pay any undetected loss of revenue with respect to undisclosed goods, irrespective of whether the goods are owned by the storage facility owner or not.

- Despite the noble intention of seeking to establish a mechanism of enabling close monitoring of storage facilities for tax compliance, this introduction is likely to increase the administrative burden to both the storage owners and the TRA and the operating cost to the storage owners.

More clarity as to when a manager of an entity is liable to payment of defaulted tax of the entity

- The Finance Act has amended the conditions under which the manager of the entity is jointly and severally liable with the entity for payment of tax. The Act has stated that, where it is proven by the court that the default to pay tax was due to fraud, then the manager together with the entity shall be jointly and severally liable for payment of the tax.

- Prior to the change, the manager was not liable where the manager had exercised the degree of care, diligence and skills that would have been exercised in preventing the failure to pay tax.

- The changes are meant to provide more clarity since prior to the change subjectivity and application of judgment was used establish if a manager had exercised the required degree of care, diligence and skills.

Offences committed under any tax law will now be administered by provisions in the Tax Administration Act

- The Finance Act has added that offences committed under any tax law (including the Income Tax Act, Value Added Tax Act and others) will now be administered by provisions in the Tax Administration Act.

- The amendment is aimed at providing clarity and harmonization of offences as prior to the change, a fine for an offence was imposed on a person who has failed to comply with the provisions of the Tax Administration Act.

- Following the changes, it will mean that a person who fails to comply with both the provisions of the Tax Administration Act and any other tax laws will be liable for a fine as provided for under the Tax Administration Act.

Broadening the point for the imposition of a fine for failure to issue fiscal receipt or invoice

- The Finance Act has added a compliance criterion for a person to be liable for a fine following the failure to issue a fiscal receipt / invoice. The Act has stated that where a person fails to issue a fiscal receipt / invoice at the time of supply of goods, rendering services or receiving payment for goods or services to be liable to a fine of not less than TZS 3 million and not more than TZS 4.5 million.

- Prior to the change, a person was liable to a fine only at the point where the person fails to issue a fiscal receipt or invoice upon receiving payment for the sale of goods or services.

- Though silent, it means that, a fiscal receipt / invoice should be issued prior to supply of good or service or at the time of receiving payment for good or service.

Widening the point for the imposition of a fine for failure to demand or report a denial of issuance of fiscal receipt or invoice

- The Finance Act has amended the point at which a person is liable to a fine following the failure to demand or report a denial of issuance of a fiscal receipt / invoice. The Act provides that, where a person fails to demand or report a denial of issuance of a fiscal receipt / invoice at the time of receipt of goods or services or payment for goods or services to be liable to a fine of not less than TZS 30,000 and not more than TZS 1.5 million.

– Prior to the change, a person was liable to a fine only at the point where the person fails to demand or report a denial of fiscal receipt / invoice upon payment for goods or services.

– Though silent, it means that, fiscal receipt / invoice should be demanded or in case of denial to be issued reported prior to receiving goods or service or the time of payment for goods or service.

Offence for failure to be registered or licenced under a tax law

– The Finance Act has introduced a fine to a person who is required to be registered or licensed under a tax law to perform any functions and fails to apply for such registration within the period prescribed by law or as may be notified by the Commissioner General.

– The fine shall on conviction of the offence be not more than TZS 7.5 million or imprisonment for a term not exceeding 1 year or to both.

Introduction of excise duty offences

– The Finance Act has introduced a fine to a person who has committed an offence and on conviction is found to have contravened the provisions of the Excise (Management and Tariff) Act.

– For a first time offender, the fine is a maximum of TZS 4.95 million or imprisonment for a term not exceeding 3 years or both. For a subsequent offender, the fine is not less than TZS 4.95 million but not exceeding TZS 52.5 million or imprisonment for a term not less than 5 years but not exceeding 20 years or to both.

– In addition to the above penalties, the court may issue an order for forfeiture of any plant, excisable goods or materials connected to the commission of the offence.

– A person will be deemed to commit an offence if he does the following:

i. manufactures any excisable goods without being licenced by the licensing authority;

ii. does not abide with any of the conditions in a licence imposed on him or breaches any of the licence conditions given to him;

iii. does not obey a suspension or revocation of his licence by the Commissioner together with any conditions thereof;

iv. fails to keep records with respect to manufacture, storage and delivery of excisable goods at his factory or place of work in the prescribed manner;

v. denatures spirits for sale without being licenced by the licensing authority and adopting the prescribed formula;

vi. fails to make entry or declaration, before commencing manufacture of excisable goods, of each building, room, place, machinery or equipment, item of plant for the manufacture, preparation for sale or storage of excisable goods;

vii. makes use of any building, room, place, machinery or equipment or item of plant for manufacture, preparation for sale or storage of excisable goods without a valid entry;

viii. makes use of a building, room, place, machinery or equipment or item of manufacture, preparation for sale or storage of excisable goods for purpose other than that declared in the approved entry; or

ix. effects alteration in shape, position, or capacity of a building, room, place of manufacture or preparation for sale or storage of excisable goods without prior permission of the Commissioner.

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Other Notable Changes

The Finance Act has also introduced several changes to various Acts. Below are highlights on some notable changes:

No cess on seeds; less cess on forest produce

- The Finance Act has amended the Local Government Finance Act by exempting crop cess on seeds. This change is expected to provide relief to farmers and boost productivity in the agricultural sector.
- Furthermore, forest produce cess has also been reduced from 5% to 3%. The reduction in the levy is expected to provide relief to forestry traders and support the growth of the forestry sector.

Tax Administration Act provisions now applicable to Gaming Tax

- The Finance Act has amended the Gaming Act by introducing the provision of the Tax Administration Act relating to the maintenance of documents, tax liability, collection and recovery of tax, imposition of interest, tax enforcement, objection and appeal to apply with respect to gaming tax.
- The change is aimed at facilitating homogenous administration of the Gaming Act with other tax laws.

Reduction of gaming tax on sports winnings

- The Finance Act has amended the Gaming Act by reducing the gaming tax rate applicable on sports betting winnings from 15% to 10%. This will be good news to gamers.

Scope for mandatory insurance expanded

- The Finance Act has amended the Insurance Act by restricting a person from importing goods or operate a public market, commercial building marine vessel, ferry or pantoon without obtaining insurance coverage.
- The change is aimed at increasing insurance uptake and enhance financial inclusion.
- Notably, the cost of importing goods will also increase by taking into account insurance premium payable.

Reduced royalty on coal used as industrial raw material and gold sold at refinery centres

The Finance Act has amended the Mining Act by reducing the royalty rates as shown in the table below:

Item	Previous royalty rate	Proposed royalty rate
Gold sold at refinery centres	6%	4%
Coal used as industrial raw material	3%	1%

- The change is aimed at attracting investments, reduce production cost, ensure adequate availability of raw material and promote employment.

Cheaper mobile money transaction costs with widen base!

- The Finance Act has amended the National Payment Systems Act by amending the scope for imposition of money transaction levy to now include all electronic money. Prior to the change, the money transfer levy was only charged on electronic mobile money transactions. Subsequently, it means all transactions involving electronic money will be subjected to a money transfer levy.
- The Finance Act has made it clear that the levy will not be applicable to transactions involving the payment of salaries by employers.
- The Finance Act has also amended the National Payment Systems Act by reducing the electronic money transaction levy on sending and withdrawing monies from a maximum of TZS 10,000 to TZS 4,000.
- In line with the above change, we expect to receive amended regulations that will capture the reduced levy.

This is aimed at reducing the cost of living of citizens.

Who is a Beneficial Owner (BO)?

- The Finance Act has amended the Companies Act, the Trustees Incorporation Act and the Business Names (Registration) Act by deleting the current definition of Beneficial Owner and referring to the definition in the Anti-Money Laundering Act.

- Therefore, a BENEFICIAL OWNER means any natural person who ultimately owns or controls the customer, the natural person on whose behalf a transaction or activity is being conducted, a person who exercises ultimate effective control over a legal person or legal arrangement or beneficiary of an insurance policy or other investment linked insurance policy and includes a shareholding of 5% or more in the legal person or an ownership interest of 5% or more in the legal person held by a natural person.
- This will consolidate the meaning of a BENEFICIAL OWNER across all Acts.

Disclosure of beneficial ownership for partnership and fines therein

- The Finance Act has amended the Business Names (Registration) Act by introducing a requirement to furnish information and particulars relating to the Beneficial Owner during registration of partnership and to introduce a penalty for failure to provide information relating to the Beneficial Owners of partnership which will be fine of not less than TZS 1 million but not exceeding TZS 5 million.
- Furthermore, the Finance Act stipulates that, the Beneficial Owners information submitted to the Registrar will be made accessible to authorities responsible for investigating, prosecuting offences, combating and preventing money laundering and terrorist financing, the Financial Intelligence Unit and TRA.
- This change will enhance compliance and ensure availability of beneficial ownership information.

Stringent penalties for non-compliance in relation to registration and filing of returns

- The Finance Act has amended the Companies Act by introducing stringent penalties for companies that either fail to:

  i. maintain a register of members and Beneficial Owner;

  ii. notify the Registrar of any changes;

  iii. to keep an index of the names of the members and Beneficial Owners of the company; or

  iv. to file annual returns.
- The penalty imposed for the above offences shall not less than TZS 100,000 but not exceeding TZS 1,000,000.

Requirement to maintain documents relating to dissolution of companies for 10 years

- The Finance Act has amended the Companies Act by stating that after 10 years from the dissolution of the company, the company, the liquidators, or any person to whom the custody of the books and papers has been committed shall not have any responsibility provided that the liquidator shall be responsible for maintaining accounting records and underlying documentations relating to the dissolution of a company for a period of at least 10 years from the date of dissolution.
- This amendment is made to require the liquidators of companies to maintain accounting records and documents relating to dissolution of companies for at least ten years.

Save costs and time through amicable settlement of tax disputes

- The Finance Act has amended the Tax Revenue Appeals Act by opting for amicable settlement of tax disputes rather that amicable mediation since the latter involves a third party such as legal officers/counsellors who had proven to be less effective due to the time used.
- This will ensure timely and cost saving settlement of disputes. Essentially, the amendment aligns with the current practice.

Introduction of export levy on copper waste and scrap metals

- The Finance Act has amended the Export Levy Act by introducing an export levy of 30% or USD 150 per metric tonne (whichever is higher) on copper waste and scrap metals HS Code 7204 and 7404.
- This change will protect local manufacturers and ensure sufficient availability of raw materials to the respective industries.

Intern students being exempted from SDL

- The Finance Act has amended the Vocational Education and Training Act by exempting intern students from higher learning institutions or technical and vocational education and training institutions who are under the Tanzania Employment Service Agency (TaESA) program, from paying the SDL.
- This change is aimed at providing relief to employers who engage such students through TaESA program as interns in their workplace. This change will boost the number of internships beneficiaries who will have job skills and experience prior to employment.

New fee on television decoder subscription

- The Finance Act has amended the Electronic and Postal Communications Act by imposing a fee to be charged on television decoder subscription paid at a rate ranging from TZS 500 to TZS 2,000.
- The introduction of this fee aims to increase government revenue. However, it is noted that the rate adopted in the Finance Act has been reduced from the ones that were proposed in the Finance bill (ranging from TZS 1,000 to TZS 3,000).

The Government through the Finance Act 2022 is still implementing the Blueprint for Regulatory Reforms for improving the business environment by amending various fees and levies

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