Thinking beyond borders: Management of extended business travelers - Namibia

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KPMG

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Key message

1 Key message

The Namibian tax system is source based. In terms of the source basis of taxation, any amount of cash or otherwise which is received by, or which accrues to, any person from a source within or deemed to be within Namibia is subject to tax in Namibia, unless the receipt is of a capital nature.

A sliding scale is used to determine the tax rates applicable to individuals. For all years of assessment effective 1 March 2013, the minimum rate is nil percent and the maximum rate applied is 37 percent. Any change in the tax rates is announced in the annual budget speech once the draft bill is promulgated for comments and approved by Parliament.

The Namibian tax year commences on 1 March to the last day of February that subsequent year. The Namibian tax authority is known as the Namibia Revenue Agency (NamRA).

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Income tax

2 Income Tax

2.1 Liability for income tax

As mentioned above, Namibia has a source basis of tax. Where a person provides services (including employment services) within Namibia, the income will be regarded as being from a Namibian source if the service is rendered in Namibia and will be subject to tax in Namibia. Where the person is a non-resident, the person may receive relief from being taxed in Namibia under a Double Taxation Agreement (DTA) provided that the conditions of the said DTA are met.

2.2 Tax trigger points

Where a person earns income from a Namibian or deemed Namibian source and that income exceeds 50,000 Namibian dollars (NAD) per year, that person would need to register for tax in Namibia. There has been an introduction of tax relief for individuals in the N$50,000 to N$100,000 tax bracket, effectively reducing their tax rate to zero effective in FY2024/25. This has, however, not been enacted yet and we are awaiting the new tax table.

2.3 Types of taxable income

Most types of remuneration and benefits received by any person from a Namibian or deemed Namibian source for services rendered constitute taxable income regardless of whether the person making the payment is a resident of Namibia or not, except for a few exceptions. Typical taxable items are:

- basic salaries, wages, leave pay, and bonuses
- fees, commission
- contractual gratuities
- cash allowances such as travelling, entertainment
- non-cash items such as accommodation, home-leave flights, cost-of-living allowance, reimbursements of foreign and/or home country/jurisdiction taxes, and benefits-in-kind including the usage of a company car or a rental car.

2.4 Tax rates

Tax rates effective from 1 March 2013:

Taxable income	Base rate	Percentage
0 – 50 000	NAD0	Exempt
50 001 – 100 000	NAD0	18 % of the amount exceeding NAD50 000
100 001 – 300 000	NAD9 000	+ 25% of the amount exceeding NAD100 000
300 001 – 500 000	NAD59 000	+ 28% of the amount exceeding NAD300 000
500 001 – 800 000	NAD115 000	+ 30% of the amount exceeding NAD500 000
800 000 – 1 500 000	NAD205 000	+ 32% of the amount exceeding NAD800 000
Exceeds NAD1 500 000	NAD429 000	+ 37% of the amount exceeding NAD1 500 000

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Social Security

3 Social Security

3.1 Liability for social security

There are social security taxes that are paid over to the Commissioner of Social Security. Contribution by the employer is 0.9 percent and the contribution by the employee is 0.9 percent, up to a maximum remuneration of NAD108,000 per annum, amounting to NAD81 per month for an employee.

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Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

The deadline for individual returns of income is 30 June every year. The submission date for provisional taxpayers is 30 September every year. Late provisional tax payments attract penalties of 10 percent per month and interest charges of 20 percent per annum.

4.2 Employer reporting and withholding requirements

An employer must withhold tax on salaries and wages and pay this over to NamRA on or before the 20th of the subsequent month following the month during which the amounts were withheld. Late payment of this tax will attract penalties of 10 percent per month and interest charges of 20 percent per annum. In addition, the employer is required to submit their monthly Employee Tax returns (ETX) template/excel sheet) on the Integrated Tax Administration System (ITAS) portal.

4.3 Exemption

There are certain exemptions available from paying tax which includes salaries and emoluments payable to a person who holds an office in Namibia as an official of a government other than the government of Namibia; or any specialized agency of the United Nations, provided certain requirements are met.

Further exemptions include:

Housing Exemption:

The taxable value of housing benefits granted, in terms of housing schemes approved by NamRA, is reduced by one-third thereof.

Lump sum payments from loss or variation of office:

Where a lump sum payment is received as a result of the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment as a result of an employee attaining the age of 55; due to ill health, superannuation or other infirmity; or because the person was considered redundant, an exemption of up to NAD300,000 is available on the lump sum received. The NAD300,000 is available over the lifetime of the individual.

Lump sum payments from a pension, provident or preservation fund:

Lump-sum benefits received from pension funds, provident funds or preservation funds transferred for the benefit of the taxpayer to another pension fund, provident fund, retirement annuity fund or preservation fund within 3 months after the end of such year of assessment is exempt from tax. This is so if the taxpayer did not claim a deduction in respect of one of the following:

- Contributions made to a pension fund or provident fund, where the contributions are a condition of employment or holding of an office.
- Contributions made to a retirement annuity fund as a member of the fund.

One third of lump sums payable from a provident fund are exempt from tax provided that the lump sum was not paid as a result of the taxpayer’s employment having been terminated due to dismissal or resignation or upon the dissolution of the provident fund or provident preservation fund. The exemption applies provided that the lump sum was paid as a result of the retirement or death of the taxpayer.

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Immigration

5 Immigration

5.1 Work permit/visa requirements

New Work Permit Application: Documentation

(Please note all documentation must be in English and certified) Application for temporary work or study permit (for applicant only).

Marriage certificate	Only if spouse is going to accompany you to Namibia/Divorce certificate
2 Passport Photos	For each member of the family if accompanying applicant
Visa Application Form	For each member of the family who have own passports
Copies of Passport	Date of Issue, Date of Expiry and Passport Number for each member – must be certified
Police Clearance	For any person over the age of 18 years accompanying the applicant. Must be from country/jurisdiction of origin and last country/jurisdiction of residence.
Tax certificate	Certificate of good standing
Medical Report	Applicant and each member of the family
Radiological Report	Applicant and each member over the age of 12 years old
Qualifications	Of applicant only. Must be certified and in English
Curriculum Vitae	Applicant only
Copies of work references	Applicant only – must be certified and in English
Registration certificate	With the relevant professional board and/or association

To be completed by the Company

- Deed of Surety
- Employee Representative Form
- Social Security registration
- Motivational letter
- Copy of employment agreement/contract signed between applicant and employer
- Copies of position advertisements
- Copies of three CVs of unsuccessful applicants

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Other issues

6 Other issues

6.1 Double taxation treaties

Subject to certain conditions, generally relief from Namibian tax will apply where the expatriate is a resident of a country/jurisdiction that has a DTA with Namibia and is working in Namibia, where:

- The individual is not present in Namibia for more than 183 days during the period defined in the relevant DTA,
- The employer responsible for the remuneration is not a resident of Namibia, and
- The remuneration is not borne by a permanent establishment or fixed base of the foreign employer in Namibia.

Namibia has DTAs with the following countries/jurisdictions:

- Botswana
- France
- Germany
- India
- Malaysia
- Mauritius
- Romania
- Russian Federation
- South Africa
- Sweden
- United Kingdom.

6.2 Permanent establishment implications

Namibia does not have the concept of a "permanent establishment" specifically defined in its domestic law. Reliance is placed on the Organisation for Economic Co-operation and Development (OECD) definition of the term "permanent establishment" (PE) in Article 5, which defines a PE as "a fixed place of business, through which the business of an enterprise is wholly or partly carried on". Where a DTA applies however, there is a risk that individuals working in Namibia on behalf of their foreign employer may create a permanent establishment for the foreign employer in Namibia.

6.3 Indirect taxes

Indirect taxes that could be encountered are:

- VAT
- Stamp duties
- Transfer duty on the purchase of property

- Customs duty if goods are imported from countries/jurisdictions that fall outside the South Africa Customs Union (SACU).
- Excise duty

6.4 Transfer pricing

According to transfer pricing provisions, to determine the taxable income of an acquirer or supplier in an international transaction, who are connected persons, the Minister of Finance may adjust the consideration to reflect an arm's length price where the goods or services are supplied or acquired at a price less or more than the arm's length price.

The following general guidelines apply in relation to transfer pricing documentation:

- Documents should show that consideration was borne to determining the most suitable method based upon information gathered and analyses performed.
- Details of the methodology is provided along with abridged documentation identifying the relevant transfer pricing transaction.
- Note: A taxpayer is required to be in possession of transfer pricing documentation, which is readily available, to substantiate the arm's length price applied as a consideration, should the Minister query this, but there is no requirement to submit the said documentation with tax filings at present.

The Minister of Finance has the power to adjust the liability of a taxpayer where it is determined that a transaction, scheme or operation has been entered into which has the effect of avoiding or postponing liability for the payment of any tax imposed by the Income Tax Act, if it was entered into in an abnormal manner or has created rights not normally created in arm's length transactions.

In addition, Namibia has thin capitalization rules in terms of which the deduction of interest may be disallowed if it is the Minister's opinion that the value of the financial assistance granted to a Namibian company by a non-resident connected person or a non-resident which holds more than 25 percent of the shares in the Namibian entity is excessive in relation to the Namibian company's fixed capital. A safe-harbor ratio of 3:1 is prescribed.

6.5 Local data privacy requirements

There are no local data privacy requirements for individuals as Namibia does not have any specific data privacy laws.

6.6 Exchange control

Non-residents can open a non-resident's account with a Namibian bank for them to receive their salary, wages and any other benefits relating to their employment here in Namibia.

6.7 Non-deductible cost of assignees

Generally, expenses not incurred for business purposes are not deductible for assignees. Expenses incurred for personal consumption are not deductible.

6.8 Salary Earned from Working Abroad

To the extent that a non-resident individual renders services outside of Namibia, the remuneration attributable to the time worked outside Namibia would not be taxable in Namibia, as it would not be sourced in Namibia. This apportionment will usually be done based on days spent working inside and outside Namibia. It is however our recommendation that the requirement for the individual to render services outside Namibia be detailed in a contract of employment (such as a split contract arrangement which could be entered into).

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