

Tax Amendment Bills Tabled

Keeping you in the know



The Minister of Finance tabled the Income Tax and Export Levy Bills in the National Assembly recently. Please note that these Bills have not been finally approved and gazetted as law yet. We will keep you informed of their status.

This newsletter serves to highlight the contents of the tabled Bills.

Income Tax

The reduction of the rate for withholding tax on services in 2015 from 25% to 10% was aimed to only apply to management, consulting, technical and administrative services rendered by non-residents. The reduction was not intended to apply to entertainment fees and fees paid to non-resident directors. The 2015 Amendment Act however did not achieve this aim and the 2016 Income Tax Amendment Bill now clarifies this matter.

Export Levy

The long awaited Export Levy Bill (“the Bill”) has finally been tabled in the National Assembly.

Please note that there are a number of uncertainties created in the Bill as result of the specific wording used that would require clarification.

We provide below an overview of some of the key issues of the Bill.

Purpose of the export levy

The purpose of the export levy, as quoted in the Bill, is “...to improve Namibia’s value share in its resource base, to encourage further processing or beneficiation of or value addition to such goods, to support national or regional industrial development, to promote the development of regional value chains and to meet revenue needs”

How will the export levy work?

The export levy will be imposed on the value of export levy goods (certain minerals, gas and crude oil products, fish products and forestry products) destined to be exported from Namibia at specified rates.

What goods will be subject to the levy?

Export levy goods are listed in schedules 1, 2 and 3 of the Bill and different rates apply to the specifically listed products.

The full schedules are attached to this newsletter.

What is not clear from the schedules is whether the products specified in the schedules are complete and whether omission of any products means exemption from the export levy. The Bill however reserves the right for the Minister to add or delete goods from the schedules or insert new schedules to the Bill. One should therefore keep abreast of new developments to ensure compliance.

What value should be applied to determine the export levy?

The value of export levy goods is the “free on board” price of such goods. If there is no “free on board” price the value is considered to be the value of the exported goods.

The “free on board” price is defined in the Bill to include all profits, costs, charges and expenses up to the place where the goods leave Namibia, including any agents commission calculated on such profits, costs, charges or expenses.

It is not clear what “profits, costs, charges and expenses” mean and what the objective was for the inclusion of these items in the export levy value.

What is the export levy rate?

The rates are stipulated in Schedule 1, 2 and 3 and ranges between 0% - 2% on minerals, gas and crude oil products, between 1% and 1.5% for listed fish products and between 0% and 2% for forestry products.

Who is the exporter?

The definition to exporter refers to a person who exports the relevant goods from Namibia. The definition further includes any person who, at the time of export:

- Owns goods to be exported;
- Carries the risk of the sported goods;
- Represents that or acts as if he or she is the exported or owner of such goods;
- Actually takes or attempts to take such goods from Namibia;
- Has a beneficial interest in any way in such goods exported; or
- Acts on behalf of any person referred to above.

This wide definition could cause some practical difficulties in identifying the person that will be responsible for payment of the export levy.

When is payment for the export levy due?

The Bill in its current format does not specify when payment of the export levy is due, but it would appear if payment will be required before the relevant goods leave the country. This could result in significant logistical issues and this point will need further clarification. Furthermore, the Bill makes reference and essentially defines the “time of export”, but the time is not linked to an actual payment date.

The time of export is depended on the method of transportation as noted below:

- Vessel, air or rail:
 - Not less than one hour before the goods have been delivered to:
 - A container terminal, container or cargo depot or goods shed to be loaded for export by vessel or air; or
 - A container terminal where the goods will be loaded on board the cross border railway carriage in which the goods are to be exported.
- Road
 - At any time after the goods have been loaded on board the means of transport, but not later than the time the means of transport reaches the land border-post where the goods will be exported; or
 - Before or at the time a person on foot or otherwise reaches the land border-post where the goods will be exported.
- Cross-border pipeline or electric transmission line
 - Within such period as may be determined by the customs authority.

Interest and Penalties

The Bill contains penalty and interest provisions, but neither of these provisions limit the penalties and/or interest to the capital amount. The penalty provisions also do not specify at what point the penalty stops running. We believe both these are merely omission errors and hope that the Bill will be corrected in due course.

Interest of 20% per annum may be charged on the amount of unpaid levy calculated from the payment due date to the date of payment. Penalties of 10% of the amount of unpaid levy for each month or part thereof calculated from the first day after the payment due date.

Implementation date

The Bill will be effected at a future date determined by the Minister in a Gazette. Before the Minister can announce that effective date, the Bill needs to be passed by Parliament, signed by the President and published/ gazetted.

We encourage impacted industries to consider the practicalities around the Bill and to contact us if we could assist with making submissions to Inland Revenue to clarify challenges regarding the practical application of the Bill.

Contact us

For more information on the topic covered in this newsletter please do not hesitate to contact our Deloitte Namibia Tax team:

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