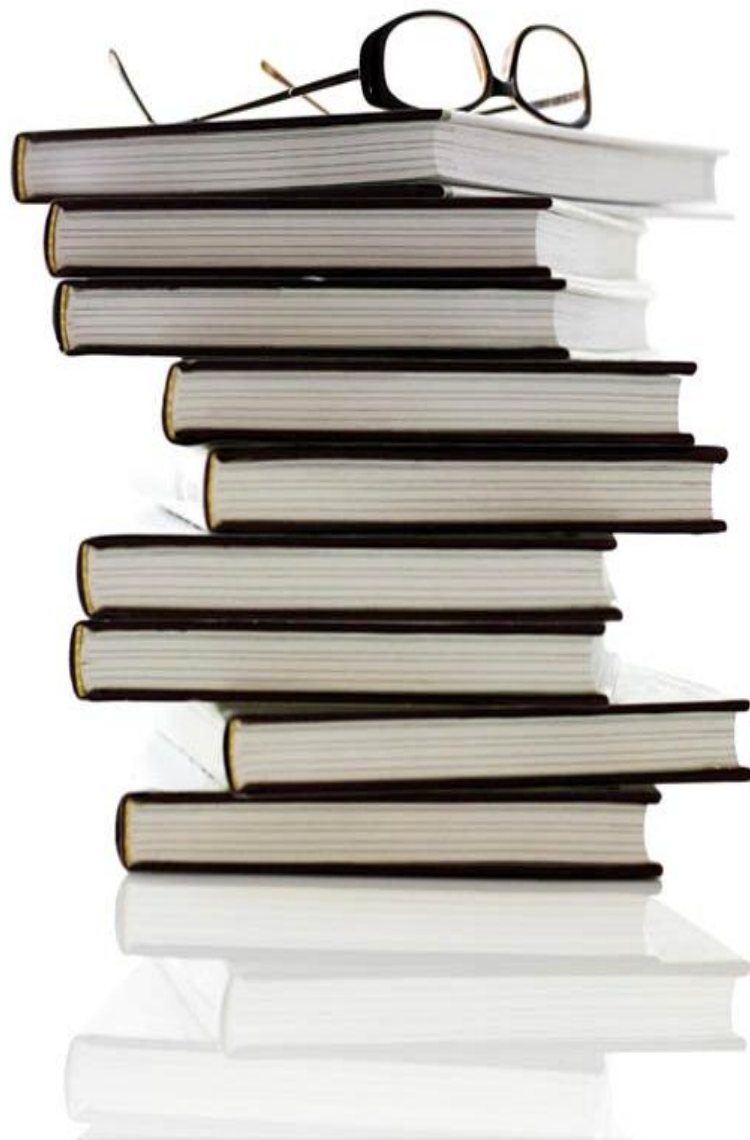


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**Deloitte Tax  
Update**  
Keeping you in  
the know

1 December 2011

Gerda Brand – Director, Tax &  
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# Tax Update Agenda

- Income Tax update & questions
- Value-added Tax update & questions
- Stamp duty update & questions
- Other legislation changes

# Income Tax Changes

# Income Tax

## “Capital Gains Tax” - mining

- Income from
  - ✓ Sale, donation, cession, grant, other alienation of license or right to mine or explore
  - ✓ Sale of shares in company holding such rights
- Only mineral rights
- Not applicable i.r.o. other natural resource e.g. fishing rights
- Subject to tax at 34%
- Irrespective of where -
  - ✓ Transaction concluded; or
  - ✓ Payment made;
- Intention to tax only income relating to value of licence
- Wording require clarification
- Effective date: if gazetted in Dec 2011 – any transaction taking place on/after 1 Jan 2012

# Income Tax

## Withholding tax - services

- Namibian resident paying
  
- A non-resident
  - ✓ Sportsperson;
  - ✓ Musician;
  - ✓ Entertainer / other person involved in cabernet, motion picture, radio, TV, theatre;
  - ✓ For administrative services;
  - ✓ For managerial services;
  - ✓ For technical services;
  - ✓ For consultative services;
  - ✓ For any similar services;
  
- Must withhold 25% of invoice amount

# Income Tax

## Withholding tax - services (cont.)

- “Non-resident person”
  - ✓ Company not managed and controlled in Namibia;
  - ✓ Other than a company – person not ordinarily resident in Namibia/ not carrying on business in Namibia
  - ✓ Deemed to be non-resident if payment made to address outside Namibia
- No matter where services are performed
- Wide application – intended by Ministry?
- Wording needs clarification – DTA impact?
- Prescribed form & payment submitted by 20<sup>th</sup> of next month
- Penalties & interest on failure / late payment
  - ✓ 10% per month/ part of month
  - ✓ 20% interest
  - ✓ Penalty & interest may not exceed WHT amount
  - ✓ Penalty waive
- Effective date: if gazetted in Dec 2011: on/after 1 Jan 2012

# Income Tax

## Withholding tax – dividends (“NRST”)

- Namibian resident paying
- A non-resident shareholder
- Shareholding more than 25%
  - ✓ Remain at 10%
- Shareholding less than 25%
  - ✓ Increase to 20%
- Double tax agreements still apply e.g.
  - ✓ South Africa: shareholding at least 25% - 5%;
  - ✓ South Africa: shareholding below 25% - 15%;
  - ✓ Germany: shareholding at least 10% - 10%;
  - ✓ Germany: shareholding below 10% - 15%
- Effective date: if gazetted in Dec 2011 – on/after 1 Jan 2012

# Income Tax

## NRST (cont.)

- Company A has the following shareholders:
  - ✓X: A South African company with 30% shareholding;
  - ✓Y: A South African company with 10% shareholding;
  - ✓Z: A German company with 20% shareholding;
  - ✓W: A German company with 5% shareholding; and
  - ✓N: A Namibian individual with 35% shareholding

Company	Prior to amendment		After Amendment	
	Rate per Act	Reduced by DTA	Rate per Act	Reduced by DTA
X	10%	5%	10%	5%
Y	10%	10%	20%	15%
Z	10%	10%	20%	10%
W	10%	10%	20%	15%
N	N/A	N/A	N/A	N/A



# Income Tax

## Building allowances

- Clarification of application
- 20% initial allowance in year brought in use
- 4% (non-manufacturing) & 8% (manufacturing) year after 20%
- Cannot claim leasehold improvement allowance & building allowance
- Effective date: if gazetted in Dec 2011
- ✓ Individuals from 1 March 2012;
- ✓ Companies years commencing on/after 1 Jan 2012

# Income Tax

## Export allowances

- Export allowance equal to
- 80% of taxable income from export
- Excluding fish & meat
- I.r.o. manufactured goods
- Amendment: limited to goods manufactured in Namibia
- Act unclear on degree of Namibian manufacturing
- Effective date: if gazetted in Dec 2011
- ✓ Individuals from 1 March 2012;
- ✓ Companies years commencing on/after 1 Jan 2012

# Income Tax

## Provisional tax

- If gazetted in Dec 2011
- ✓ Individuals from 1 March 2012;
- ✓ Companies years commencing on/after 1 Jan 2012
- Based on estimate (first & second); no longer on previous assessment
- Submit estimate
- Under-estimation penalties
- ✓ Both first & second;
- ✓ If estimate is < 80% of final
- ✓ Penalty up to 100% of final tax
- ✓ Limited to the under-estimated amount
- ✓ May be waived
- Penalties on late submission of estimate
- ✓ N\$100 per day
- Penalties on late payment
- ✓ 10% of amount per month/ part of month

# Income Tax

## Ring-fencing of tax losses

- Ring fencing of assessed loss – natural persons - following trades
- ✓ Farming/ animal breeding (unless on a full time basis – not defined)
- ✓ Renting of residential accommodation, vehicles, aircraft, boats (unless 80% used by non-relatives for ½ of year)
- ✓ Practising sport;
- ✓ Dealing in collectibles;
- ✓ Showing animals;
- ✓ Practising creative arts;
- ✓ Practising any form of gambling/ betting
- Tax loss > N\$ 200 000; and
- Tax loss for 3 of last 5 years; and
- No reasonable prospect of deriving taxable income

# Income Tax

## Ring-fencing of tax losses (cont.)

- Set criteria for “reasonable prospect” e.g.
  - ✓ level of activities
  - ✓ number of full time employees
  - ✓ advertising expenses incurred
  - ✓ commercial setting of premises etc.
  
- Even with reasonable prospect – ring fenced
  - ✓ tax losses for 6 of last 10 year
  - ✓ starting after 2011 tax year
  
- Effective date: if gazetted in Dec 2011 - from 1 March 2012

# Income Tax

## Withholding tax on interest

- WHT on interest not applicable to
  - ✓ Stock & securities
  - ✓ Treasury bills issued by Government, regional council or local authority
- WHT on interest i.r.o. deemed distribution (non-distributing unit trusts) – payable within 60 days from the unit trust's financial year end
- Effective date: 1 March 2009

# Income Tax Recoupment

- Sale/ removal from Namibia
- Recoupment at MV
- Request Minister to use amount below MV
- Generally used for inter-company transfer
- Concession abolished
- Implications: use MV
- Effective date: if gazetted in Dec 2011 – on/after 1 Jan 2012

# Income Tax

## Company owned policies

- Amount loan/ advance for cession of policy – included in gross income in year loan/ advance received
- Amount received when policy sold/ surrender – included in gross income less loan/ advance previously included
- Premiums deductible provided:
  - ✓ Premiums included in taxable income of director / employee;
  - ✓ Policy covers company against losses arising from death / severe illness of director / employee;
  - ✓ Policy is a risk policy with no cash value prior to maturity / death
  - ✓ Owner of the policy = taxpayer (excl creditor of taxpayer)
  - ✓ Amount recoverable under policy / any amount in lieu not paid to insured employee / the estate of employee or director / any person wholly or partly dependent on employee / director
  - ✓ Limited to N\$ 40 000 per annum (in aggregate with pension funds etc.)



# Value-Added Tax Changes

# Value-Added Tax

## Medical & Hospital Services

- Medical, dental, paramedical & hospital services 0% – 1/5/2010
- Reclassified as exempt supplies
- Funeral services remain 0%
- Effective date – day after the month published in Government Gazette
- Implications –
  - ✓ Deregister for VAT unless other taxable supplies > N\$ 200 000
  - ✓ Declare output on stock & capital goods on hand on which input was claimed – market value
  - ✓ No input VAT on goods & services acquired/ imported
  - ✓ Increase in medical & hospital costs

# Value-Added Tax

## Cut-off of Tax Periods

- Cut-off of tax period for month-end not more than 10 days before or after the last day of month
- Currently the Act provides for cut-off to be 10 days before the last day of the month
- Effective date – day after the month published in Government Gazette

# Value-Added Tax Tax Tribunal

- Appeals can be lodged within 60 days after served with notice of objection decision to:
  - ✓ Special Court for hearing income tax appeals; or
  - ✓ Tax tribunal
- Tax tribunal is aimed to:
  - ✓ Handle “lower value” tax cases
  - ✓ Expedite tax cases
- Effective date – day after the month published in Government Gazette

# Value-Added Tax

## Announcements not promulgated

- Supply of livestock remain 0%
- VAT registration threshold remain at N\$ 200 000
- Voluntary VAT registrations remain
- Export of raw minerals, unprocessed fish, livestock, game, crude oil and gas remain 0%
- VAT refund to tourist & non-residents will not be abolished

# Stamp Duty Changes

# Stamp Duty

## Rate changes: Natural Persons

Current		Proposed	
< N\$ 20 000	N\$ 5 for every N\$ 1 000	< N\$ 400 000	Nil
> N\$ 20 000	N\$ 100 + N\$ 10 for every N\$ 1000	> N\$ 400 000	N\$ 10 for every N\$ 1 000

# Stamp Duty

## Rate changes: Juristic Persons & Trusts

- N\$ 12 for every N\$ 1 000 irrespective of the value of the property
- Effective date – day after the month published in Government Gazette



# Other Amendments

# Other Amendments

## Still to come

- Transfer duty: on sale of membership interest and shares of property owning entities
- Export levy: 0% to 2% on export of raw minerals, unprocessed fish, game, crude oil and gas
- After further consultation
- Environmental tax: e.g. plastic bags and vehicles
- Not yet tabled

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