

HASSOCK ASSOCIATES

TAX ALERT FINANCE ACT 2022

The Finance Act 2022 was published and released by the Government on 30 June 2022, subsequent the Regulations relating to Income Tax, Value Added tax, Tax Administration Act were Gazette by the Minister for Finance and respective Government Notices (“GN”) (478U, 478Q & 478W) issued 01 July 2022. Also, the Minister for Minerals issued the Mining (local content) (Amendment) Regulations, 2022 and published on 8 July 2022, by GN 479 dated 08 July 2022. All these are part of this tax alert.

Below are the amendments to various Tax Laws, other legislations and Regulations

Income Tax Act

The following definitions were introduced

“business” includes:

- “.... 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....”
- “**Digital market place**” means a platform which enables direct interaction between buyers and sellers of goods and services through electronic means
- “**Alternative financing arrangement**” means any financial arrangement “approved by the Bank of Tanzania other than conventional financial arrangements;”.
- “**Electronic services**” has the meaning ascribed to it under section 51 of the Value Added Tax....

Exemptions from income tax

- “...Minister to exempt tax for strategic investment subject to a special strategic investment approved by National Investment Steering Committee under the Tanzania Investment Centre.”

Debt to equity ratio – thin capitalization rule

- “**equity**” means paid up share capital at the end of the year of income;”

Interest income alternative financing arrangement.

- “...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 way as Interest...”

Transport

- “..... 65T.-(1) The income of a resident person engaged in transportation of passengers or goods shall be determined in accordance with Subdivision B of Part III.”
- “... Expenses of a resident person engaged in transportation of passengers or goods shall be determined in accordance with Subdivision D of Part III”
- “... Notwithstanding the provisions of sub-section (1), tax payable by a resident person under this Division shall be determined in accordance with the rates prescribed in paragraph 2(5) of the First Schedule”
- “... The tax payable under subsection (3) shall be the person’s advance tax”
- “... The persons referred to under this Division shall comply with electronic means of issuing receipts as may be prescribed by the Commissioner.”.

Residence and source

A Corporation is a resident corporation for a year of income

- “... at any time during the year of income the management and control of the affairs of the corporation are exercised in the United Republic, whether *physically or through any electronic means*”

The following payment have a source in the United Republic

- “... Natural resource payment made in respect of or calculated by reference to natural resources taken from land or the sea situated within the United Republic or its territorial water, including
- “... payment made for harnessing, generating or utilizing land, air or water natural resources for generation of power or anything of value whether the respective natural resources is located alongside the border or within the country....”
- “... Payment made by an individual other than payments made in conducting a business in respect of a service rendered by nonresident through a digital market place”

Controlled Foreign Trusts and Corporations

- “... any distributions made by the trust or corporation during the year of income (determined otherwise than in section 75(1) that are included in calculating the income of a member under section 52(2)(b) or 54(1)(b), respectively.

“And in the case of distributions by a resident financial institution and for purpose of section 75(6), amount of distributions which are treated as not-distributable as determined by the Bank of Tanzania”.

Foreign Tax Relief

- “... a resident person, other than a partnership, who carries out business or investment in both Mainland Tanzania and Tanzania Zanzibar, may claim a tax credit for year of income for any income tax paid by the person in relation to the person’s taxable income from business or investment carried out in Mainland Tanzania or Tanzania Zanzibar, as the case may be.”

Income tax payable by withholding

- “... Interest paid to a holder of corporate or municipal bonds issued and listed at the Dar-Es-Salaam Stock Exchange with effect from 1st July 2022

Tax payment on income realized through digital market place

- “... Where a non-resident person receives a payment that has a source in the United Republic from an individual, other than a payment made in the course of conducting business, in respect of services rendered through a digital market place, such person shall pay income tax for payments received in a calendar month by way of single installment equal to two percent of the gross payment ...”
- “... A person shall be liable to pay income tax by filling a return to the Commissioner on or before the seventh day of the month following the month to which the payment relates...”
- “... The minister may by regulations, prescribe procedures for assessing and collecting income tax or giving effect to the provisions of this section...”
- “... For the purpose of this subsection gross payment means the payment made but does not include value Added tax”

Presumptive Income tax for individuals

- “...the individual's income for a year of income consists exclusively of income from a business “not including income derived by independent professionals and providers of, technical, management, construction and training services” having a source in the United Republic;”

TURNOVER	TAX PAYABLE WHERE SECTION 35 OF TAX ADMINISTRATION ACT IS NOT COMPLIED WITH	TAX PAYABLE WHERE SECTION 35 OF TAX ADMINISTRATION ACT IS NOT COMPLIED WITH
Where turnover does not exceed Tshs. 4,000,000/=	Nil	Nil
Where turnover exceeds Tshs. 4,000,000/= but does not exceed Tshs. 7,000,000/=	Tshs. 100,000/=	3% of the turnover in excess of Tshs. 4,000,000/=
Where turnover exceeds Tshs. = 7,000,000/= but does not exceed Tshs. 11,000,000/=	Tshs. 250,000/=	Tshs 90,000/= plus 3% of the turnover in excess of Tshs 7,000,000/=
Where turnover exceeds Tshs. 11,000,001/= but does not exceed Tshs. 100,000,000/=	3.5 % of the turnover	

- “... The Minister may, in consultation with the Minister responsible for finance of the Revolutionary Government of Zanzibar, determine the presumptive rate applicable in Tanzania Zanzibar.”

The rates of income tax referred to in section 65T (Transport) shall be as follows:

Category of Motor vehicles	Tax Payable
Category A: Goods vehicle	
Load Vehicle between 0 - 1 Ton	180,000
Load Vehicle between 1 - 5 Tons	450,000
Load Vehicle between 6 - 10 Tons	720,000
Load Vehicle between 11 - 15 Tons	1,710,000
Load Vehicle between 16 - 20 Tons	2,430,000
Load Vehicle between 21 - 25 Tons	2,610,000
Load Vehicle above 25 Tons	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

Second Schedule exempted amounts

- ... amount derived from gain on realization or transfer of mineral rights and mineral information to a partnership entity formed between the government and an investor
- ... amount derived from gain on realization or transfer of free carried interest shares from a partnership entity to the government

- ... amount derived from gain on realization or transfer to the government through the Treasury Registrar

Value Added Tax Act

- “**alternative financing product**” means any financial product “approved by the Bank of Tanzania other than conventional financial product;”.

Exemptions and rates to be specified by law

- ... the minister shall, upon approval by the Cabinet and by order published in the Gazette, grant value added tax exemption on goods and services for implementation of special strategic investment approved by the National Investment Steering Committee under the Tanzania Investment Act

Deferral of value added tax on imported capital goods

- ... “capital goods” means goods classifiable under Chapters 84, 85, and 90 of Annex 1 to the Protocol on the Establishment of the East African Community Customs Union and Heading 87.16 and HS Code 8701.20.90 locally manufactured or assembled in a custom bonded warehouse:

Zero-rating of supply of good

- A supply by local manufacturer of double refined edible oil or fertilizer shall be zero rated for a period of one year from July 2022 to 30th June 2023

Special rule

- ... where is not practicable to appoint a tax representative due to his business circumstances, a non-resident person shall apply to the Commissioner to be registered in accordance with procedures prescribed in the regulations

General provisions

- ... minister by prescribe the manner and procedures of dealing in loans, including alternative financing products approved by the Bank of Tanzania

VAT SCHEDULE

Agricultural implements

24	Ear Tag	3926.90.90
25	Ear tag applicators	8456.90.00
26	Automatic turning table	8207.30.00
27	Stunning box	8438.50.00
28	Lessor beam machines	9402.90.90

Articles designed for people with special needs

9	Agro net	56.08
30	Standing tree	06.02

Fisheries Implements

6.	Fishing hooks, reels and lines	9507.20.00 9507.90.00 9507.30.00
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Diary equipment

11.	Dairy packing materials	3923.30.00 4819.10.00 4819.20.00
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Importation of arms and ammunition, parts and accessories thereof, equipment and machineries for official use of the armed forces as certified by the Minister responsible for security and defence.

Edible oil products

S/N	DESCRIPTION
27.	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.
28.	A supply of raw materials of HS Code 2836.20.00, 2836.30.00, 2836.50.00 and packaging materials to be solely and directly used by a local manufacturer of double refine edible oil from locally grown seeds for a period of one year from 1st July, 2022 to 30th June, 2023.
29.	A supply of sisal ropes of HS Code 5607.21.00 and 5607.29.00

Imports Exempt from Value Added Tax

20	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 fisheries	8438.50.00 8453.10.00
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27	An import of cold rooms of HS codes 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 or fisheries
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29	An import of raw material of HS Codes 2528.00.00, 2710.99.00, 3505.20.00 and equipment and machineries of chapter 84 and 85 to be solely and directly used in manufacturing of fertilizers dully certified by the Ministry responsible for industries
30	An import of soil testing equipment of HS Codes 9026.10.00, 9031.80.00, 9027.80.00 and 9027.90.00 as certified by the Ministry responsible for agriculture

31	An import of moisture meter of HS Code 9031,80,00 rain gauge for weather stations of HS Code 9023.00.90 PH meter of HS Code 382.00.90 tissue culture equipment of HS Code 8419.89.60 and tension meters of HS Code 9031.80.00 as certified by the Ministry responsible for agriculture
32	An import of meteorological equipment and machinery by the Tanzania Meteorological Authority
33	An import of raw materials of HS Code 7229.90.00, 3810.90.00, 7904.00.00 4016.93.00, 8481.10.00 and 8309.90.90 by a performance agreement with the Government of the United Republic

The Excise (Management and Tariff) Act

Heading	H S Code No	Description	Unit	Old Rate	New 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	Tshs 500.00
		Imported	Kg	Nil	Tshs 700.00
1704.90.00		-other			
		Locally produced	Kg	Nil	Tshs 500.00
		Imported	Kg	Nil	Tshs 700.00
1806.31.00		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	Tshs 500.00
		Imported	Kg	Nil	Tshs 700.00

Heading	H S Code No	Description	Unit	Old Rate	New rate
	1806.32.00	-not filled			
		Locally produced	Kg	Nil	Tshs 500.00
		Imported	Kg	Nil	Tshs 700.00
	1806.90.00	-other			
		Locally produced	Kg	Nil	Tshs 500.00
		Imported	Kg	Nil	Tshs 700.00
19.05		Bread, pastry, cakes, biscuits and other baker's 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	Tshs 500.00
		Imported	Kg	Nil	Tshs 700.00
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%
	8507.20.00	-other lead -acid accumulators			
		Locally produced	U	Nil	5%
		Imported	U	Nil	10%

Export Tax Act

No	Item	Rate
3	Copper waste or scrap metals of Headings 72.04 and 74.04	Thirty per centum of the value of commodity (Fob) or 150 USD per ton whichever is greater

Gaming Act

- “... Wining means the receipt of an amount of payment or other consideration including a prize award or reward given by way of money, assets, goods or property in kind to a person after having participated in a gaming activity recognized under this Act ...”
- “... Withholding agent” means a person required to withhold gaming tax on winning from a payment under this Act and remit the amount withheld to the Commissioner;”.
- “... The provisions of Tax Administration Act relating to the maintenance of documents, tax liability, collection and recovery of tax, imposition of interest, tax enforcement, objection and appeal shall apply with respect to gaming tax under this Act ...”
- “... land-based casino shall be taxed at a rate of twelve percent on the amount or value of winning; and ...”
- “... Sports betting shall be taxed at a rate of ten percent on the amount or value of winnings”
- “... for the purposes of collecting gaming tax under subsection (1), the licensee of a gaming activity in which the winning is made and paid for, shall be a withholding agent of a person entitled to the winning and responsible for; -
- “... Issuing notifications necessary for collection of gaming tax on winning prize and withholding the gaming tax at the time of payment of winning.”
- “...remitting the withheld gaming tax to the commissioner electronically on or before the seventh day of the following month from the month of payment of the winning, and ...”
- “... Submitting return or certificate of payment of the withheld gaming tax to the Commissioner not later than fifteen days following the end of each calendar month ...”

- “... the commissioner may, subject to subsection (4) and in consultation with the Board issue guidelines on the mode of reporting and collection of gaming tax on wining under this Act ...”
- “... a licensee or withholding agent who fails to withhold gaming tax under this Act shall be responsible to pay the amounts of gaming tax on wining not withheld together with interest and penalty as provided or under the Tax Administration Act ...”

Tanzania Investment Act

- “...the Minister for finance shall confer such additional fiscal incentives as approved by the National Investment Steering Committee under an order published in the *Gazette* such fiscal incentives shall be granted in accordance with the relevant tax law ...”

The Tax Administration Act

Application for Taxpayer Identification Number

- “The Commissioner shall register and issue Taxpayer Identification Number to every Tanzanian citizen who has been registered and issued with a National Identification Number under the Registration and Identification of Persons Act ...”
- “... ensure each Taxpayer Identification Number is connected with a National Identification Number.”
- “... Provided that, for purposes of this Act, a registered person with a branch in Tanzania Zanzibar shall use Zanzibar Registration Number issued by Zanzibar Revenue Board.”
- “... the provisions of subsection (2) shall come into operation on 1 January, 2023”

Licensing of Tax Consultants

- “...the commissioner General may license an individual to act as a tax consultant on behalf of any person under the tax law for the purpose of discharging the person’s obligation in a tax law ...”
- “...the Commissioner General shall not license an individual under a tax law unless he is satisfied that the individual has fulfilled the conditions prescribed in the regulations or license issued by the Commissioner ...”

- “... a dully licensed tax consultant may act as an agent of a taxpayer under any tax law subject to conditions prescribed in the regulations or license ...”
- “... Except as otherwise provided for under this Act, an individual other than an employee or manager of a person who is not licensed under this section, 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 ...”

Electronic filling of tax returns

- “... every taxpayer required to file return shall file the return electronically on or before the due date as prescribed in the specific tax law ...”
- “... the Minister may prescribe the form and manner in which the tax return shall be filed electronically ...”
- “... The commissioner General may, by notice in writing and under special circumstances, permit a person to file a tax return manually or before any other means ...”

Registration and monitoring of storage facilities

- “... any person who establishes a storage facility with the aim of keeping goods for business purposes, shall register the facility with the Commissioner General ...”
- “... the owner of the storage facility registered under subsection (1) shall keep records of all stored goods and report to the Commissioner General on monthly basis in the manner prescribed by the Commissioner General ...”
- “...Where the Commissioner General satisfies himself that a storage facility has not been registered as required or goods have been kept without being reported as required under subsection (2), the facility owner shall be liable to a penalty of 300 currency points and be responsible to pay any detected loss of revenue with respect to undisclosed goods, whether the goods are owned by the storage facility owner or not ...”

Recovery from Third Parties, Liabilities managers of entities.

- “...the provision of section 65(1) shall apply where the default which occurred was due to fraud as it shall be proved in a court of law...”

Offence for failing to comply with tax law

- “... notwithstanding the provisions of a tax law relating to offence, a person who fails to comply with a provision of a tax law commits an offence and shall, on conviction be liable ...”

Offence for failing to use electronic fiscal device

- “... fails to issue fiscal receipt or fiscal invoice at the time of supply of goods, rendering services or receiving payment for goods or service ...”

Offence by authorized and unauthorized persons

- “... A person who is required to be registered or licensed under a tax law to perform any function and fails to apply for such registration or licensing within the period prescribed by law or as may be notified by the Commissioner General commits an offence and shall, on conviction, be liable to a fine not exceeding 500 currency points or to imprisonment for term not exceeding one year or to both ...”

Excise duty Offence

- “... a person who, contrary to the provisions of the Excise (Management and Tariff) Act,
- “... manufactures any excisable goods without being licensed by the licensing authority...”
- “... does not abide with any of the condition in a license imposed on him or breaches any of the license conditions given to him ...”
- “... does not obey a suspension or revocation of his license by the Commissioner together with any condition thereof ...”
- “... fails to keep records with respect to manufacture, storage and delivery of excisable goods at his factory or place of work in the prescribed formula...”
- “... denatures spirits for sale without being licensed by the licensing authority and adopting the prescribed formula”
- “... 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 good ...”

- “... make use of any building, room, place, machinery or equipment, item of plant for the manufacture, preparation for sale or storage of excisable goods without valid entry ...”
- “... make use of any building, room, place, machinery or equipment, item of plant for the manufacture, preparation for sale or storage of excisable goods without prior permission of the Commissioner ...”
- “... Commits an offence and shall, on conviction, be liable to a fine not exceeding 330 currency points or imprisonment for a term not exceeding three years to both....”
- “... where a person who commits an offence under subsection (1) is a subsequent offender, such person shall, on conviction, be liable to a fine of not less than 330 currency points but not exceeding 3500 currency points or to imprisonment for a term of not less than five years but not exceeding twenty years or to both...”
- “... In addition to the penalty provided for under subsection (1) or (2) , the court may issue an order for forfeiture of any plant, excisable goods or materials connected to the commission of the offence ...”

The Vocational Education and Training Act

Exemption from levy

“... intern students from higher learning institutions or technical and vocational education and training institutions who are under the Tanzania Employment Service Agency program...”

Business name (registration) Act

- “... beneficial owner” has the meaning ascribed to it under the Ant-Money Laundering Act...”
- “... A person who fails to provide information to the Registrar regarding change in beneficial ownership of the partnership, or
- “... Fails to provide the Registrar with statement of particular containing information on the beneficial owners of the partnership, commits an offence and shall, upon conviction, be liable to a fine of not less than one million shillings but not exceeding five million shillings ...”
- “... Notwithstanding subsection (1), information on the beneficial owners of a business held by the Registrar in the register of beneficial owners shall be accessible to-

- (a) national competent authorities with designated responsibilities for combating money laundering and terrorist financing;
- (b) national competent authorities that have the function of investigating or prosecuting offences related to money laundering and terrorist financing, or of tracing, seizing, freezing and confiscating criminal assets;
- (c) the Financial Intelligence Unit;
- (d) the Tanzania Revenue Authority;
- (e) any other national competent authority, other than the authorities specified in paragraphs (a), (b) and (c) which are responsible for the prevention of money laundering and funding of terrorism; ...”

Companies Act

- “... Where a company fails to deliver an annual return in accordance with chapter within twenty –eight days of the return date, the company and every officer of the company who is in default shall be liable to a penalty of one hundred thousand shillings for every day during which the default continues but not exceeding one million shillings ...”
- “.... the liquidator shall be responsible for maintain accounting records and underlying documentations relating to the dissolution of a company for a period of at least ten years from the date of dissolution ...”

THE TAX ADMINISTRATION (GENERAL) (AMENDMENT) REGULATIONS, 2022

Tax consultant register

- “...The Commissioner General shall establish a register of licensed tax consultants to be known as Tax Consultants Register.”

Tax Consultant to be registered

- “...A person shall not practice as a Tax Consultant unless that person has been licensed and registered under these Regulations.”

Particulars to be entered into register

- “...As soon as practicable after a person has been accepted for licensing and registration, the Commissioner General shall, in respect of that person, enter the following particulars in the tax consultants register-
 - (a) name and address;
 - (b) Taxpayer Identification Number;
 - (c) qualifications; and
 - (d) such other particulars as the Commissioner General may direct.”;

- “... The Commissioner General shall remove the name of any person from the register on grounds of failure to renew his licence or occurrence of any of the circumstances stated under regulation 10.”.

Registration

(1) An individual may, upon making application to the Commissioner General in form ITX375.01.E set out in the First Schedule and upon payment of the prescribed fees, be licensed and registered as a tax consultant if he satisfies the Commissioner General that he-

- (a) is a citizen of the United Republic of Tanzania;
- (b) holds a first degree in taxation, customs, finance accountancy, financial management, business management, commerce, economics, or law awarded by any recognised university or other recognised higher learning institution;
- (c) has working experience in the fields mentioned under paragraph (b) for a period of at least three years;
- (d) not been found guilty of gross professional misconduct by any professional body or court of law;
- (e) has not been convicted of a criminal offence involving a penalty of more than five years imprisonment; and
- (f) has successfully attained the required grades after performing an entrance certified tax consultancy examination authorised by the Commissioner General as stated under sub-regulation (2): Provided that, the provision of paragraph (f) shall not apply to a person who, for more than ten years, has held a senior position in the areas of tax administration, tax practice, tax management or tax resolution.

(2) For purpose of assessing a person under sub-regulation (1), the Commissioner General may require-

- (a) an applicant to take an examination at an approved institution authorised by the Commissioner General or other forms of assessment which shall be conducted once before the person is admitted as a tax consultant for the first time; and
- (b) practicing tax consultants to attend regular professional tax practice training each year organised and conducted by professional bodies, institutions or persons approved by the Commissioner General.”;

“... a person registered under sub regulation (1) shall be issued with a tax consultant practicing license which shall contain conditions as shall be prescribed by the Commissioner General ...”

“... the Commissioner General may prescribe penalties for failure by a tax consultant to adhere to the requirements under this sub regulation ...”.

Right To practice and charge fees

“... every tax consultant may practice as a tax consultant in any offices of the Tanzania Revenue Authority, Tax Revenue Appeals Board or Tax Revenue Appeals Tribunal or any other place where the services of the tax consultant shall be required ...”

“... a licensed tax consultant shall be entitled to charge fees for the services rendered under sub regulation (2) ...”

(3) Notwithstanding sub-regulation (1), no tax consultant or any person shall be allowed to act as a tax consultant under these Regulations unless such tax consultant has-

- (a) his name on the register;
- (b) a valid practicing licence; and
- (c) a valid business licence.

(4) Any tax consultant who undertakes to assist or act on behalf of a taxpayer shall be deemed to be in a binding contractual relationship of agency with that taxpayer, even if in their dealings there was no formal or written contract, such that

- (a) the taxpayer in question shall be liable to the Commissioner General as a principal to all the deeds done by the tax consultant relating to his tax affairs, whether such taxpayer was knowledgeable of such deeds or not; and

(b) the tax consultant shall be liable to the Commissioner General as legal agent to the taxpayer he purports to represent, assist or act on his behalf.

(5) Given the requirements envisaged under this Regulation, no any other person, except tax consultant, shall be allowed to assist, represent or act on behalf of taxpayers in the course of dealing with the Commissioner General or complying with tax law procedures, in which case-

(a) any act done by a person, other than a tax consultant, on behalf of a taxpayer shall not have a legal effect of binding such taxpayer and shall be void; and

(b) when the Commissioner General or any Officer of the Commissioner General acts on any act or document done by a person who is not a tax consultant purporting to be on behalf of a taxpayer, such act by the Commissioner General or Officer shall be void.

(6) A foreign tax consultant who intends to practice in the country shall practice under local tax consultant.

(7) Any person, not being a tax consultant or whose licence has expired, who deliberately acts like a tax consultant, or takes the title or name in the like manner of a practicing tax consultant commits an offence and shall, upon conviction, be liable to a fine not less than five million shillings or imprisonment for a term of not less than six months.”

Registration of storage facilities

12A.-(1) The Commissioner General shall establish and keep a register of storage facilities as required by the Act.

(2) A person shall not establish a business storage facility which keeps goods for business purposes unless that person registers the storage facility with the Commissioner General in accordance with the provisions of the Act and these Regulations.

(3) The Commissioner General shall enter the following particulars in the storage facility register-

(a) storage facility number;

(b) name and address of the owner of the storage facility;

(c) TIN number of the owner;

(d) details of nature of goods which are kept in the storage facility; and

(e) such other particulars as the Commissioner General may direct.

(4) Every change in the particulars under sub-regulation (3) shall be disclosed by the owner of the facility within thirty days from the date of such change and entered in the Register by the Commissioner General.

(5) The owner of storage facility shall record all goods stored at his storage facility and keep such record in the manner as shall be directed by the Commissioner General.

(6) The owner of a storage facility shall, on monthly basis, not later than the seventh day of the following month, submit to the Commissioner General a stock movement ledger which shall disclose goods kept in his storage facility during the month, including details of owners of the goods, origin and destination.”.

Revocation and deregistration of users' license

“...in case of a natural person, a copy of a valid national identity card or national identification number or a copy of valid passport for foreigners;”.

Application for registration

“.....every person who is required to file a return under a tax law shall, apply to the Commissioner General for the registration in the electronic register....”

THE VALUE ADDED TAX (REGISTRATION OF NON-RESIDENT ELECTRONIC SERVICE SUPPLIERS) REGULATIONS, 2022

Scope of electronic services

“...The electronic services provided or delivered through internet or any other electronic means shall include-

(a) for websites, web-hosting or remote programs and equipment-

- (i) search engine and automated helpdesk services; and
- (ii) customisable search engine services;
- (iii) downloadable digital content including downloadable mobile applications, e-books and films;

(b) for software and updating thereof-

- (i) application software;
- (ii) system software;
- (iii) drivers;
- (iv) filters and firewalls; and
- (v) plugins;

(c) for images, texts or information-

- (i) desktop theme;
- (ii) photographic image;
- (iii) pictorial image;
- (iv) screensaver; and
- (v) any right to view any item listed under this paragraph;

(d) access to database-

- (i) subscription-based media-
 - (a) news, magazines, journals, periodical and publication;
 - (b) blog;
 - (c) database;
 - (d) information system services;
 - (e) games;
 - (f) internet based auction services;
 - (g) social networking services; and
 - (h) webcast, webinar, website, web application or web;
- (ii) electronic data management-
 - (a) online data warehousing; and
 - (b) file sharing and cloud storage services;
- (iii) sharing and gig economic services including transport hailing services or platforms;
- (iv) electronic booking or electronic ticketing services;

(e) for self-education packages-

- (i) distance teaching programme;
- (ii) educational webcast;
- (iii) internet-based course;

- (iv) internet-based education programme;
 - (v) webinar; and
 - (vi) digitised content of any book or electronic publication;
- (f) for music, films and games including gaming activities-
- (i) audio clip;
 - (ii) broadcast not simultaneously broadcast over any conventional radio network;
 - (iii) jingle;
 - (iv) live streaming performance;
 - (v) ringtone;
 - (vi) song;
 - (vii) broadcast not simultaneously broadcast over any conventional television network in Mainland Tanzania;
 - (viii) documentary;
 - (ix) home-made video;
 - (x) streaming services;
 - (xi) movie;
 - (xii) music video;
 - (xiii) program;
 - (xiv) television series;
 - (xv) video clip;
 - (xvi) sound effect; and
 - (xvii) games and games of chance-
 - (a) internet-based game, including electronic game and multiplier role-playing game;
 - (b) interactive games, where such interactive game is a game of chance or game where the result is influenced by the skill of the player and game which is a combination of chance and skill; and
 - (c) electronic betting or wagering; and
- (g) for political, cultural, artistic, sporting, scientific and other broadcasts and events including broadcast television.

Application for tax registration

Subject to section 64(5) of the Act, a non-resident person who supplies electronic services to an unregistered person in Mainland Tanzania who does not appoint tax representative,

regardless of registration threshold, shall be required to apply for registration as a taxable person to the Commissioner General.

(2) The application for registration under sub-regulation (1) shall be made online in a form prescribed in the Schedule to these Regulations.

(3) The application made under sub-regulation (2) shall contain the following information:

- I. the name of the business including the business trading name;
- II. certificate of incorporation;
- III. the name of the contact person for tax matters;
- IV. the registered address of the business;
- V. the telephone number of the contact person;
- VI. the email address of the business and the contact person;
- VII. the website or uniform resource locator of the supplier through which the business is conducted; and
- VIII. any other information that the Commissioner General may require.

(4) The Commissioner General shall, upon being satisfied with the information provided in the application, register and issue the applicant with Value Added Tax Registration Number for the purpose of filing returns and payment of tax.

(5) A person registered under this regulation as a taxable person shall, where ceases permanently to be eligible to supply electronic services, inform the Commissioner General in a form set out in the Schedule to these Regulations.

(6) The Commissioner General shall deregister a person who ceases to supply electronic services or whenever he deems fit.

(7) A non-resident person who supplies electronic services in Mainland Tanzania prior to the coming into effect of these Regulations shall, within six months from the date of coming into effect, be required to register under these Regulations.

Place of supply

5. A supply of electronic services by non-resident person shall be treated as supply delivered in Mainland Tanzania when supplied to an unregistered person if-

(a) the payment proxy including credit or debit card information and bank account details of the recipient of the electronic services is in Mainland Tanzania; or

(b) the resident proxy including the billing or home address or access proxy including internet address, mobile country code of the SIM card of the recipient is in the mainland Tanzania.

Manner of submitting returns and remittance of taxes

6.-(1) A person registered under regulation 5 shall be required to file a return online in a form prescribed in the Schedule to these Regulations.

(2) The return shall be accompanied with tax payable in respect of electronic services rendered in the tax period.

(3) The person registered under these Regulations shall pay tax and file a return to the Commissioner General on or before the seventh day of the month following the month to which the return relates.

Correction of error

7. Correction of errors on return submitted in accordance with these Regulations shall be made in accordance with section 78 of the Act.

Claim of input tax

8. A person registered under these Regulations shall not claim input tax.

Mode of payment and currency

9. A person registered under these Regulations shall pay tax to a bank account designated by the Commissioner General in Tanzanian shilling or its equivalent convertible currency at the Bank of Tanzania's prevailing exchange rate on the date of payment.

Exemption from using electronic fiscal device

10. A supplier of electronic services registered under these Regulations shall not be required to acquire and use electronic fiscal device.

Penalty for false or misleading statements

11. Any person who makes a false or misleading statement or omits to include material facts in a statement made to a tax officer shall be liable to a penalty prescribed under section 79 of the Tax Administration Act.

Interests

12. Any person registered under these Regulations who fails to pay tax on the due date shall be liable to pay interest at the statutory rate compounded monthly to the Commissioner General.

Offences

13. A person who fails to comply with these Regulations commits an offence and shall be liable on conviction to a penalty specified under section 88B of the Tax Administration Act

SCHEDULE

FORMS

FORM NO. 1

(Made under regulation 4(2))

APPLICATION FOR VRN FOR A NON-RESIDENT TAXPAYER

Note: Furnishing false or misleading information is punishable by law

Please read the instructions carefully before filling.

I. GENERAL INFORMATION

TIN

1. *Application Status
 First Application Amendment
2. *Category of Person
 Individual Entity
3. *Type of Entity
 Partnership Association
- Other

II. BUSINESS INFORMATION

1. *Business Name:
2. *Nature of Business activity:
 a.
 b.
 c.
7. *Email Address:
 a. Official
 b. Contact Person

8. Social Media Account(s).

Facebook page:

Instagram page:

Twitter page:

YouTube page:

Others:

9. *Website:

10. *Uniform Resource Locator (URL)

III. ATTACHMENTS

**Please attach the business certificate(s) and Certificate of Incorporation for Entities.*

IV. DECLARATION

I, the undersigned, do hereby declare that the particulars given above are correct and complete to best of my knowledge and that any change of details shall be communicated to the Commissioner General in writing within thirty days from the date of change.

*First Name:

*Second Name:

*Position:

*Signature:

11. *Date:

(Made under regulation 4(5))

APPLICATION FOR DEREGISTRATION OF VRN FOR A NON-RESIDENT TAXPAYER

Note: Furnishing false or misleading information is punishable by law

Please read the instructions carefully before filling.

V. GENERAL INFORMATION

TIN

4. * Application Type

VRN

VI. REASON FOR DEREGISTRATION

1. *Specify Reason (s) :

d.

e.

f.

3. * Outstanding Tax Liabilities (if any):

c.

d.

VII. DECLARATION

I, the undersigned, do hereby declare that the particulars given above are correct and complete to the best of my knowledge and that any change of details shall be communicated to the Commissioner General in writing within thirty days from the date of change.

*First Name:

*Second Name:

*Position:

*Signature:

FORM NO. 3

(Made under regulation 6(1))

VAT ELECTRONIC SERVICES RETURN

Note: *Furnishing false or misleading information is punishable by law*

Please read the instructions carefully before filling.

INSTRUCTIONS FOR FILING VAT ELECTRONIC SERVICES RETURN	
1. Please fill the below information correctly.	
2. All parts of the return are Mandatory.	

I. GENERAL INFORMATION

Taxpayer Identification Number (TIN):	
VAT Registration Number (VRN):	
Name of Taxpayer:	
Month of return:	
Year of return:	
VAT on Electronic Services GFS code description:	
VAT on Electronic Services GFS code:	

II. RETURN PARTICULARS

PART ONE (1) - SUPPLIES OF ELECTRONIC SERVICES			
S/N	Nature of Supplies	a) Amount (Exclusive of VAT)	b) VAT Charged
1	Standard Rated Services		
PART TWO (2) – ADJUSTMENTS			
Increasing Adjustments			
2	Minor Errors		
3	Other adjustments		
4	Total Output Tax for the period <i>(Sum row 1 to 3)</i>		
Decreasing Adjustments			
5	Minor Errors		
6	Other adjustments		
7	Total amount <i>(Sum of row 5 to 6)</i>		

PART THREE (3) - COMPUTATION OF TAX			
8	Output Tax for the Period <i>(Transfer from row 4)</i>		
9	Decreasing Adjustment <i>(Transfer from row 7)</i>		
10	Total VAT Payable - (Row 8 minus 9)		

III. DISCLOSURE OF ADJUSTMENTS

S/N	DECREASING/ INCREASING	AMOUNT (VAT EXCL)	VAT AMOUNT	DESCRIPTION (REMARKS)
1				
2				
3				
4				
5				

IV. DECLARATION

I hereby declare that the information given on this return and any accompanying documents is complete and accurate to the best of my knowledge and belief. I understand that giving false information in the return or concealing any part of the profits or tax payable can lead myself and/or the entity be prosecuted.

Name of declarant	Position			
Signature	Date Submitted	Day	Month	Year

**THE INCOME TAX (REGISTRATION OF NON-RESIDENT ELECTRONIC
SERVICE PROVIDERS) REGULATIONS, 2022**

Scope of electronic services

“...The electronic services provided or delivered through internet or any other electronic means shall include-

(a) for websites, web-hosting or remote programs and equipment-

- (i) search engine and automated helpdesk services; and
- (ii) customisable search engine services;
- (iii) downloadable digital content including downloadable mobile applications, e-books and films;

(b) for software and updating thereof-

- (i) application software;
- (ii) system software;
- (iii) drivers;
- (iv) filters and firewalls; and
- (v) plugins;

(c) for images, texts or information-

- (i) desktop theme;
- (ii) photographic image;
- (iii) pictorial image;
- (iv) screensaver; and
- (v) any right to view any item listed under this paragraph;

(d) access to database-

- (i) subscription-based media-
 - (a) news, magazines, journals, periodical and publication;

- (b) blog;
 - (c) database;
 - (d) information system services;
 - (e) games;
 - (f) internet-based auction services;
 - (g) social networking services; and
 - (h) webcast, webinar, website, webapplication or web;
- (ii) electronic data management-
 - (a) online data warehousing; and
 - (b) file sharing and cloud storage services;
 - (iii) sharing and gig economic services including transport hailing services or platforms;
 - (iv) electronic booking or electronic ticketing services;
- (e) for self-education packages-
 - (i) distance teaching programme;
 - (ii) educational webcast;
 - (iii) internet-based course;
 - (iv) internet-based education programme;
 - (v) webinar; and
 - (vi) digitised content of any book or electronic publication;
 - (f) for music, films and games including gaming activities-
 - (i) audio clip;
 - (ii) broadcast not simultaneously broadcast over any conventional radio network;
 - (iii) jingle;
 - (iv) live streaming performance;
 - (v) ringtone;
 - (vi) song;

- (vii) broadcast not simultaneously broadcast over any conventional television network in Mainland Tanzania;
- (viii) documentary;
- (ix) home-made video;
 - (a) streaming services;
 - (b) movie;
 - (c) music video;
- (x) program;
 - (a) television series;
 - (b) video clip;
 - (c) sound effect; and
- (xi) games and games of chance-
 - (a) internet-based game, including electronic game and multiplier role playing game;
 - (b) interactive games, where such interactive game is a game of chance or game where the result is influenced by the skill of the player and game which is a combination of chance and skill; and
 - (c) electronic betting or wagering; and
 - (g) for political, cultural, artistic, sporting, scientific and other broadcasts and events including broadcast television.

Application for tax registration

“... A non-resident person who provides electronic services to a resident individual as provided for under section 90A (1) of the Act shall be required to apply for registration to the Commissioner General.

(2) The application for registration under sub-regulation (1) shall be made online in a form prescribed in the Schedule to these Regulations.

(3) The application shall contain the following information:

- (a) the name of the business including the business trading name;
- (b) certificate of incorporation;
- (c) the name of the contact person for tax matters;
- (d) the registered address of the business;
- (e) the telephone number of the contact person;
- (f) the email address of the business and the contact person;
- (g) the website or uniform resource locator of the supplier through which the business is conducted; and
- (h) any other information that the Commissioner General may require.

(4) The Commissioner General shall, upon being satisfied with the information provided in the application, register and issue the applicant with Value Added Tax Registration Number for the purpose of filing returns and payment of tax.

(5) A person registered under this regulation as a taxable person shall, where ceases permanently, inform the Commissioner General in a form set out in the Schedule to these Regulations.

(6) The Commissioner General shall deregister a person who ceases to supply electronic services or whenever he deems fit.

(7) A non-resident person who supplies electronic services in Mainland Tanzania prior to the coming into effect of these Regulations shall, within six months from the date of coming into effect, be required to register under these Regulations.

Source of payment

5.-(1) A payment for electronic services shall be deemed to have source in the United Republic, where the recipient of the service is in the United Republic.

(2) The recipient of the service shall be deemed to be in the United Republic if-

(a) the payment proxy including credit or debit card information and bank account details of the recipient of the electronic services is in United Republic; or

(b) the resident proxy including the billing or home address or access proxy including internet address, mobile country code of the SIM card of the recipient in the United Republic.

Manner of submitting simplified returns and remittance of taxes

6.-(1) The return required under section 90A(2) of the Act shall be made online in a simplified form prescribed in the Schedule to these Regulations.

(2) The return shall be accompanied with tax payable in respect of electronic services rendered in the tax period.

Mode of payment and currency

7. A person registered under these Regulations shall pay tax to a bank account designated by the Commissioner General in Tanzanian shilling or its equivalent convertible currency at the Bank of Tanzania's prevailing exchange rate on the date of payment.

Exemption from using electronic fiscal device

8. A non-resident person registered under these Regulations shall not be required to acquire and use electronic fiscal device.

Penalty for false or misleading statements

9. Any person who makes a false or misleading statement or omits to include material facts in a statement made to a tax officer shall be liable to a penalty prescribed under section 79 of the Tax Administration Act.

Interests

10. Any person registered under these Regulations who fails to pay tax on the due date shall be liable to pay interest at the statutory rate compounded monthly to the Commissioner General.

Offences

11. A person registered under these Regulations who fails to comply with these Regulations commits an offence and shall be liable on conviction to the punishment specified under section 88B of the Tax Administration Act.

SCHEDULE

FORMS

FORM NO. 1

(Made under regulation 4(2))

APPLICATION FOR VRN FOR A NON-RESIDENT TAXPAYER

Note: Furnishing false or misleading information is punishable by law

Please read the instructions carefully before filling.

I. GENERAL INFORMATION

TIN

1. *Application Status
First Application Amendmen
2. *Category of Person
Individual Entity
3. *Type of Entity
 Partnershi Association
- Other

II. BUSINESS INFORMATION

1. *Business Name:
7. *Nature of Business activity:
a.
b.
c.
7. *Email
a. Official
- b. Contact Person

8. Social Media Account(s).

Facebook page :

Instagram page:

Twitter page:.....

YouTube page:.....

Others:

9. *Website:

10. *Uniform Resource Locator (URL)

V. ATTACHMENTS

**Please attach the business certificate(s) and Certificate of Incorporation for Entities.*

VI. DECLARATION

I, the undersigned, do hereby declare that the particulars given above are correct and complete to best of my knowledge and that any change of details shall be communicated to the Commissioner General in writing within thirty days from the date of change.

*First Name:

*Second Name:

*Position:

*Signature:

11. *Date:

FORM NO. 2

(Made under regulation 4(5))

APPLICATION FOR DEREGISTRATION OF TIN FOR A NON-RESIDENT TAXPAYER

Note: Furnishing false or misleading information is punishable by law

Please read the instructions carefully before filling.

- Where applicable, mark with (√)
- Item marked with asterisk (*) are Mandatory.

I. GENERAL INFORMATION TIN

1. * Application Type

TIN

2. *Name of business

II. REASON FOR DEREGISTRATION

1. *Specify Reason (s):

a.

b.

c.

2. *Date of cessation of Business:

3. * Outstanding Tax Liabilities (if any):

a.

b.

III. DECLARATION

I, the undersigned, do hereby declare that the particulars given above are correct and complete to the best of my knowledge and that any change of details shall be communicated to the Commissioner General in writing within thirty days from the date of change.

**First Name:*

**Second Name:*

**Position:*

**Signature:*

**Date:*

FORM NO. 3

(Made under regulation 6(1))

INCOME TAX ELECTRONIC SERVICES RETURN

Note: *Furnishing false or misleading information is punishable by law*

Please read the instructions carefully before filling.

INSTRUCTIONS FOR FILING ELECTRONIC SERVICES RETURN

1. Please fill the below information correctly.
2. All parts of the return are Mandatory.

I. GENERAL INFORMATION

Taxpayer Identification Number (TIN):	
Name of Taxpayer:	
Month of return:	
Year of return:	
Electronic Services GFS code description:	
Electronic Services GFS code:	

II. RETURN PARTICULARS

PART ONE (1) - SUPPLIES OF ELECTRONIC SERVICES		
SN	Payments	Amount
1		Gross value
PART TWO (2) - COMPUTATION OF TAX		
2		Tax Payable - (<i>Rate-2% multiply by Gross value</i>)

DECLARATION I hereby declare that the information given on this return and any accompanying documents is complete and accurate to the best of my knowledge and belief. I understand that giving false information in the return or concealing any part of the profits or tax payable can lead myself and/or the entity be prosecuted.

Name of declarant		Position		
Signature	Date Submitted	Day	Month	Year

THE MINING (LOCAL CONTENT) (AMENDMENT) REGULATIONS, 2022

“**contractor**” means a person who has entered into a contract with a licensee within or outside the United Republic for provisions of goods and services in mining operations.”;

“**mining activities**” means any activity engaged in within and outside Tanzania related to the exploration for, development and production of minerals, the acquisition of data, mining and extraction or mining of minerals, storage, transportation and decommissioning and the planning, design, construction, installation, operation, provision of goods, services and use of any facility for the purpose of the mining operations;”;

“**subcontractor**” means a third party to whom a corporation or contractor has entered into a contract for the provision of goods and services for mining operations;”

Submission of proposed contracts

“... A proposed contract shall be sole sourced only under the following conditions:

(a) where a contractor, sub-contractor, licensee or other allied entity has issued an advertisement relating to expression of interest for the provision of the particular goods or services and has been able to obtain only one particular tenderer who is suitable for the provision of the goods and services;

(b) where there is an urgent need for the goods and services and engaging in tendering proceedings would therefore, be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by a contractor, sub-contractor, licensee or other related entity nor the result of dilatory conduct on its party.”

Employment and Training Sub-Plan

The quarterly performance report shall be filled in the format specified in the Fourth Schedule to these regulations to be submitted to the Commission not later than fourteen days after the end of each quarter.”

Offences and penalties

“(6) A contractor, subcontractor, licensee or other allied entity that-

(a) carries out mining activities without the required local content requirement in contravention of regulation 7;

(b) fails to submit a local content plan in contravention of regulation 10;

(c) fails to satisfy the content requirement of a local content plan in contravention of regulation 12; or

(d) fails to inform the Commission of each proposed contract or purchase order in contravention of regulation 16 and 18, shall be liable to-

(i) cancellation of a contract in respect of the mining activity; and

(ii) pay to the Commission an administrative penalty of five percent of the value of the proceeds obtained from the mining activity in respect of which the breach is committed or fifty million shillings whichever amount is greater;”

(b) adding new sub-regulation (7) immediately after sub-regulation (6) as amended as follows:

“(7) A contractor, subcontractor, corporation, licensee or other allied entity that fails to submit any quarterly or annual performance report within the required period shall pay to the Commission ten million shillings for none submission of performance report.”;

“... (9) Where a contractor, subcontractor, corporation or other allied entity other than mineral right holder fails to effect payment under sub-regulation (7) or continue none submission of report shall be prohibited from bidding on provisions of goods and services until complies with the requirement provided under these regulations.

—————
“FOURTH SCHEDULE
 —————

(Made under Regulation 20)

(COMPANY NAME)					
LOCAL CONTENT (ANNUAL/ QUARTERLY) PERFORMANCE REPORT FOR (YEAR ENDED 20...../ QUARTER FOR THE YEAR 20.....)					
COMPANY LOGO					
CATEGORY (MINERAL RIGHTS HOLDER/CONTRACTOR/SUBCONTRACTOR):					
TYPE OF MINERAL/ SERVICE:					
REPORTING PERIOD	(ANNUAL/QUARTER)	FROM		TO	
PREPARED BY:					
NAME:					
COMPANY POSITION:					
SIGNATURE:					
DATE:					
APPROVED BY:					
NAME:					
COMPANY POSITION:					
SIGNATURE:					
DATE:					
NOTE:					

1.	Annual Local Content Performance Report should be Submitted within 45 days after the end of each year
2.	Quarterly Local Content Performance Report should be submitted within 14 days after the end of each Quarter
3.	Ensure that only CORRECT information have been provided
4.	Ensure that all sheets have been filled (PART I - PART IX) * PART VII is mandatory for Mineral Rights Holders
5.	Ensure that the cover page has been filled and signed
6.	The Report should be submitted in the excel format and the signed copies in pdf format to the email: localcontent@tumemadini.go.tz
7.	The Signed Report hard copies should be submitted to the Address: Executive Secretary, The Mining Commission, P.O BOX 2292, DODOMA.

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HASSOCK ASSOCIATES

Although we have taken all reasonable care in compiling this publication, we do not accept responsibility for any errors or inaccuracies that it may contain. This alert has been prepared for reference; it is not a substitute of publication issued by the Government.

**COPY OF THE FINANCE ACT 2022 AND THE REGULATIONS CAN BE
DOWNLOADED FROM OUR WESITE**

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