

(Published 3rd November, 2020)

Act

No. 14 of 2020

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
31st October, 2020

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Amendment of s. 2 to Cap.41:01
3. Amendment of s.15 of the principal Act
4. Replacement of the Eleventh Schedule to the principal Act
5. Replacement of the Fourteenth Schedule to the principal Act

An Act to amend the Taxation Act

ENACTED by the Parliament of Malaŵi as follows—

1. This Act may be cited as the Taxation (Amendment) Act, 2020. Short title
2. The Taxation Act (hereinafter referred to as “the principal Act”) is amended, in section 2, in the definition of the word “amount realized”, by deleting paragraph (a) and substituting therefor the following new paragraph (a)—
 “(a) in the case of disposal of an asset by sale for cash, means the cash received or contracted to be received, including any contingent amount agreed at the time of the disposal.”. Amendment
of s. 2 to
Cap. 41:01
3. Section 15 of the principal Act is amended, in subsection (1) paragraph (e), by inserting, immediately after the word “trust”, the words “in which the individual is a Settlor of the trust”. Amendment
of s. 15 of the
principal Act
4. The Eleventh Schedule to the principal Act is amended, by deleting the Schedule and replacing therefor, a new Eleventh Schedule, as follows— Replacement
of the
Eleventh
Schedule to
the principal
Act

“ELEVENTH SCHEDULE
RATES OF INCOME TAX

Income tax shall be charged as follows—

- (a) in the case of an individual, at the rates laid down in the Appendix to this Schedule;
- (b) in the case of ecclesiastical, charitable or educational institutions of a public character or of trusts, at thirty per cent of the taxable income;
- (c) in the case of all companies other than companies engaged in mining operations under a licence issued under the Mines and Mineral Act, thirty per cent of taxable income except that in the case of companies operating in priority industries, so designated by the Minister for this purpose, by order published in the *Gazette*, the applicable rate shall be either—
 - (i) zero per cent for such period, not exceeding ten years, as the Minister may grant in the order; or
 - (ii) fifteen per cent:

Provided that an additional tax of five per cent of taxable income shall be charged in respect of all companies not incorporated in Malawi;

- (d) in the case of a taxpayer in respect of their mining project—
 - (i) thirty per cent of taxable income:

Provided that an additional tax of five per cent of taxable income shall be charged in respect of all such taxpayers who, if a company, are not incorporated in Malawi, and who, if other than a company, are not resident in Malawi;
 - (ii) an additional resource rent tax at a minimum rate of fifteen per cent on after tax project resource rent in respect of their mining project determined by using the formula—

$$r = \frac{40.5-t}{100-t} \times 100$$

where;

“r” is the rate of RRT, expressed as a percentage; and

“t” is the rate applicable for income tax on companies;

- (e) in the case of life assurance business, at thirty per cent of the taxable income;

- (f) in the case of fringe benefits, at thirty per cent of the taxable value of fringe benefits;
- (g) in case of Turnover Tax, at the rate of two per cent of the taxable turnover; and
- (h) in the case of earnings on investment of pension funds, at fifteen per cent.

APPENDIX

TABLE OF RATES OF INCOME TAX ON TAXABLE INCOME

<u>Annual Taxable Income</u>	<u>Rate</u>
First K1,200,000	0%
Next K34,800,000	30%
Excess of K36,000,000	35%".

5. The Fourteenth Schedule to the principal Act is amended, by deleting the Schedule and replacing therefor, a new Fourteenth Schedule, as follows—
- Replacement
of the
Fourteenth
Schedule to
the principal
Act

"FOURTEENTH SCHEDULE

TABLE OF WITHHOLDING TAX — RATE OF DEDUCTION

<i>Nature of payment</i>	<i>Notes</i>	<i>Rate of Withholding Tax on gross payment</i>
(a) Royalties		20%
(b) Rents	1	20%
(c) Payment for any supplies to traders and institutions—		
(i) Foodstuff		3%
(ii) Other		3%
(d) Commissions	2	20%
(e) Payment for carriage and haulage		10%

<i>Nature of payment</i>	<i>Notes</i>	<i>Rate of Withholding Tax on gross payment</i>
(f) Payment of tobacco and other farm produce—		
(i) Sale for the first 1,200 kilograms or ten bales of tobacco sold through auction floors		0%
(ii) Sale of tobacco in excess of 1,200 kilograms or ten bales sold through auction floors		3%
(iii) Sale of tobacco through farmer clubs at auction floors		0%
(iv) Payment for other farm produce		3%
(g) Payment to contractors in the building and construction industries	3	4%
(h) Payment for public entertainment	4	20%
(i) Payment for casual labour—		
(i) Payment of up to K35,000		0%
(ii) Payment in excess of K35,000		20%
(j) Payment for services		20%
(k) Interest	5	20%
(l) Fees	2	20%
(m) Winnings on betting and gambling including lotteries	6	20%

Notes:

1. Includes rent for moveable and immoveable property, whether paid under a lease or otherwise, but excludes rent payable by an individual whose source of income is only from employment and the rent is payable in respect of property used as a dwelling house.
2. Excludes fees and commissions on which P.A.Y.E. is being operated, but includes technical fees and management fees to the extent they do not relate to reimbursement of expenses.
3. Includes contractors and subcontractors of any category.
4. Includes payment to musicians, radio and television artist, athletes and theatres, but excludes payments to radio and television artists which are subject to P.A.Y.E.
5. Excludes—
 - (a) interest payable to a person exempt from income tax under the First Schedule;
 - (b) interest payable to a person, not being a person resident in Malaŵi, whose income is liable to non-resident tax under section 76A; and
 - (c) interest, however arising, payable by any person to an institution registered under the Banking Act.
6. “Winnings” means any payment made to any person who wins a bet or a gamble including lottery.”

Passed in Parliament this nineteenth day of October, two thousand and twenty.

FIONA KALEMBA
Clerk of Parliament