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Tanzania:
Understanding the
key changes made by
the Finance Act of
2022

July 2022

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This article will cover key legislative changes as a result of amendments made by the Finance Act No.5, 2022 (the Finance Act). Please see the below summary highlighting some of the key changes made to different tax and legislative regimes. These changes will affect stakeholders in the respective industries/sectors in Tanzania.

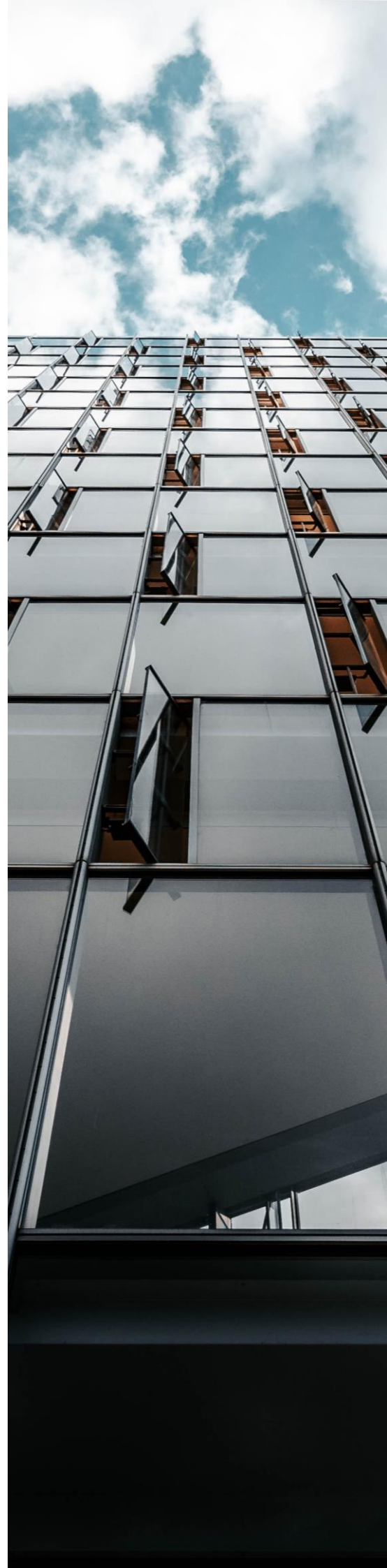
The Finance Act, which became operational as of 1 July 2022, amends a total of 35 laws, including:

- The Mining Act Cap 123 R.E. 2019 (the **Mining Act**);
- The Companies Act No. 12 of 2002 (the **Companies Act**);
- The Trustees' Incorporation Act Cap 318 of 2002 (the **Trustees' Incorporation Act**);
- The Business Names (Registration) Act Cap 213 of 2002 (the **Business Names (Registration) Act**);
- The Copyright and Neighbouring Rights Act Cap 218 of 2002 (the **Copyright and Neighbouring Rights Act**);
- The Insurance Act No. 10 of 2009 (the **Insurance Act**);
- The Local Government (District Authorities) Act Cap 287 R.E. 2002 and the Local Government (Urban Authorities) Act Cap 288 R.E. 2002
- The Occupational Safety and Health Act No. 5 of 2003 (the **Occupational Safety and Health Act**);
- The Ports Act No. 17 of 2004 (the **Ports Act**);
- The Tanzania Investment Act Cap 38 R.E. 2002 (the **Tanzania Investment Act**);
- The Tax Administration Act Cap 438 R.E. 2019 (the **Tax Administration Act**);
- The Income Tax Act Cap 332 R.E. 2019 (the **Income Tax Act**);
- The National Payment Systems Act No. 4 of 2015 (the **National Payment Systems Act**);
- The Value Added Tax Act Cap 148 R.E. 2019 (the **VAT Act**);
- The Bank of Tanzania Act No. 5 of 2006 (the **BoT Act**);
- The Electronic and Postal Communications Act No. 3 of 2010 (the **Electronic and Postal Communications Act**);
- The Land Act Cap 113 R.E. 2019 (the **Land Act**);
- The Excise (Management and Tariff) Act Cap 147 R.E. 2019 (the **Excise (Management and Tariff Act)**);
- The Export Tax Act Cap 196 R.E. 2002 (the **Export Tax Act**); and
- The Government Loans, Guarantees and Grants Act No. 9 of 2003 (the **Government Loans, Guarantees and Grants Act**).

The Mining Act

- Royalties

The amendments will have every authorised miner pay the Government a 4% royalty in the case of gold sold at refinery centres and a 1% royalty in the case of coal used as industrial raw material.



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The Companies Act

Interpretation - definition of a beneficial owner

The definition of a beneficial owner, as provided in section 2 of the Companies Act, is amended to what is provided under the Anti-Money Laundering Act. The Anti-Money Laundering Act defines a beneficial owner as “any natural person who ultimately owns or controls the customer, the natural person on whose behalf a transaction or activity is being conducted, a person who exercises ultimate effective control over a legal person or legal arrangement or beneficiary of an insurance policy or other investment linked insurance policy”.

Register of members and beneficial owners

The amendment to section 115(5) of the Act provides the default amount a company will have to pay for failing to keep a register of members of the company and beneficial owners. The company and all officers of the company in default shall be liable to pay a fine of no less than TZS 100,000 but not exceeding TZS 1 million.

Index of members

The same changes are made to section 116(4) of the Act for failing to keep an index of the names of the members of the company.

Liquidator's obligation

Section 393 is amended to require liquidators of companies to maintain accounting records and documents relating to the dissolution of companies for a period of at least ten (10) years.

The Trustees' Incorporation Act

Interpretation - definition of a beneficial owner

The definition of a beneficial owner, as provided in section 1A of the Trustees' Incorporation Act, is changed to what is provided in the Anti-Money Laundering Act. See the above definition under the amendments to the Companies Act.

Nomination of trustees, filing of vacancies and return of trustees

The amendments affect section 16 (2) and (3) of the Act. The changes require a trustee for the time being to notify the Administrator General within one (1) month when the following occur:

- when a person ceases to be a trustee or a beneficial owner and a new trustee is appointed;
- when a person who becomes a beneficial owner or a trustee changes his name, residence or postal address; or
- when a beneficial owner changes his particulars.

A trustee or beneficial owner who fails to notify the Administrator General of the above changes shall have committed an offence and be liable to pay a fine of no less than TZS 200,000 but not exceeding TZS 1 million.

The Business Names (Registration) Act

Interpretation – definition of a beneficial owner

The definition of a beneficial owner, as per section 2 of the Act, is changed to what is provided in the Anti-Money Laundering Act.

The exact definition is provided in the Companies Act and Trustees' Incorporation Act above.

Penalty for default in registration

The changes to the Act will require firms to provide particulars of the beneficial owners of the partnership. It shall be an offence where a person fails to provide information regarding a change in beneficial ownership of the partnership and/or fails to provide the Registrar of Companies with a statement of particulars on the beneficial owners of the partnership. And upon conviction, the person shall be liable to pay a fine of not less than TZS 1 million and not more than TZS 5 million.

The Registrar of Companies shall hold information on the beneficial owners in the register of beneficial owners, and this information shall be accessible to:

- the Tanzania Revenue Authority (TRA);
- the Financial Intelligence Unit (FIU);
- competent national authorities with the responsibility to combat money laundering and terrorist financing;
- competent national authorities responsible for investigating or prosecuting offences related to money laundering and terrorist financing or tracing, seizing, freezing and confiscating criminal assets; and
- any other competent national authority other than the ones mentioned above which are responsible for the prevention of money laundering and funding of terrorism.

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The Copyright and Neighbouring Rights Act

Functions of the Copyright Office

- The organisation known as the Copyright Society (the Society) will be known as the Copyright Office. In line with this amendment, the functions of the Copyright Office have been expanded to include among others the below:
- to deal with issues of anti-piracy;
- to assist in establishing a collecting organisation for any class of copyright owners; and
- to collect and distribute royalties in respect of copyright works or performers' rights in cases where collective management organisations do not operate.

Fees, royalties, etc.

- In determining fees and royalties, the Copyright Office shall have the power to approve the minimum rates of royalties levied in respect of uses made of works registered by it. Also, the Copyright Office shall have the power to impose fees upon licensing works.

Imposition of copyright levy

The Finance Act seeks to impose a copyright levy at a rate of 1.5% charged on the value of radio/television sets enabling recording, analogue audio recorders, analogue video recorders, CD/DVD copiers, digital jukeboxes and MP3 players. To implement this, the Minister for Finance (the Minister) shall make regulations to prescribe the manner and modality under which the levy shall be collected and accounted for.

The Insurance Act

Mandatory insurance

An addition of section 133A to the Act will require importers of goods and operators of public markets, commercial buildings, marine vessels, ferries or pontoons to obtain insurance cover. The Minister shall create regulations to prescribe the commercial buildings, public markets and imported goods that will require mandatory insurance.

The Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act

Establishment of one-stop centres by district and urban authorities

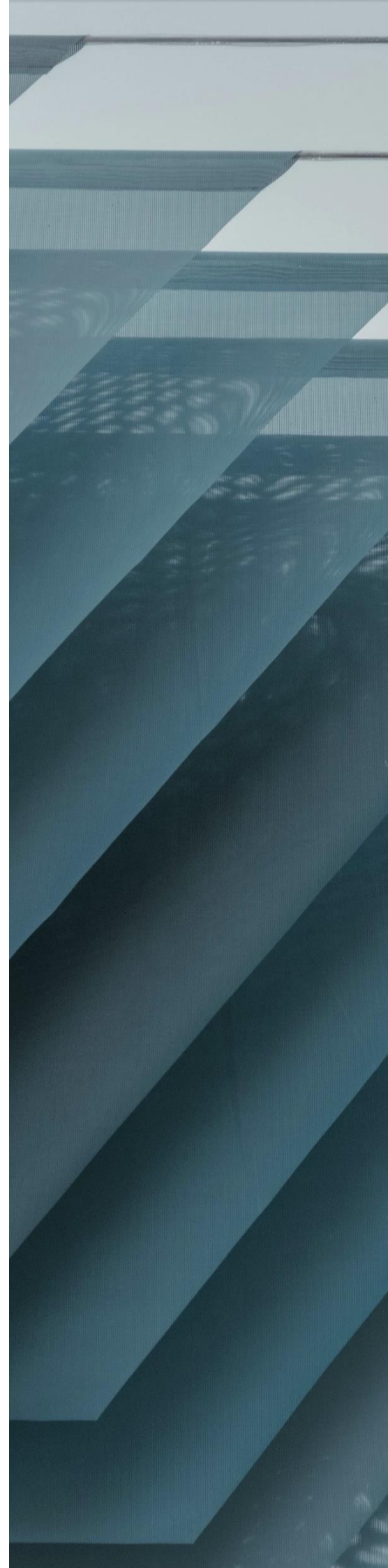
The amendments to both Acts seek to facilitate easy coordination and promotion of business within the respective district and urban authorities, by encouraging the authorities to establish a one-stop centre to handle their daily activities.

This provision will be implemented by way of regulations to be made by the Minister.

The Occupational Safety and Health Act

Procedure for registration

The amendment provides that when registering premises for use as a factory or workplace, the Chief Inspector shall issue the applicant with a certificate of registration within seven (7) days of the applicant fulfilling occupational health and safety requirements and paying the prescribed compliance licence fee.



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The Ports Act

Tanzania Ports Authority (TPA) funds

The amendment mandates TRA to collect wharfage which is one of the principal sources of funds and resources for TPA. The wharfage revenue shall be deposited in a bank account at the BoT and disbursed to TPA by the Paymaster General.

The Tanzania Investment Act

Benefits for strategic or major investments

The amendment provides that where the National Investment Steering Committee (the NISC)^[1] approves additional specific fiscal incentives, such fiscal incentives shall be granted in accordance with the relevant tax law.

The Tax Administration Act

Application of Taxpayer Identification Number (TIN)

The amendment to section 22 of the Tax Administration Act requires the Commissioner General to do the following with effect from 1st January 2023^[2]:

- to register and issue TIN to every Tanzanian citizen from the age of 18 years and above as long as that person has the National Identification Number issued by the National Identification Authority (NIDA); and
- to ensure the TIN issued is connected with a National Identification Number.

*Please note that a registered person with a branch in Zanzibar shall use the Zanzibar registration number issued by the Zanzibar Revenue Board.

Registration and regulation of tax consultants

Section 28, which provided for the registration and deregistration of tax consultants by the Minister, is repealed and replaced by a new provision which will give the Commissioner General the mandate to license an individual to act as a tax consultant in Tanzania.

Electronic filing of tax returns

To simplify the filing of tax returns, the Finance Act has introduced electronic filing of tax returns. The taxpayer will be required to file tax returns electronically on or before the due date to file the tax returns. However, under special circumstances, a taxpayer may by notice in writing to the Commissioner General be permitted to file tax returns manually or by other means.

Registration and monitoring of storage facility

The addition of section 45A to the Act provides that the owner of a storage facility that keeps goods for business purposes must register the facility with the Commissioner General. There is also a requirement to keep records and file a monthly report to the Commissioner General.

Liability of managers of entities

Section 65(1) provides that where an entity fails to pay tax on time, a manager or person who was the manager at the time the default took place shall be jointly and severally liable with the entity to pay the tax. The Finance Act amends section 65(2) to limit the abovementioned provision to default by fraud proven by a court of law.

The Income Tax Act

Interpretation – definition of business & digital marketplace

Section 3 is amended by adding a provision that expands the definition of the term 'business' to include a transaction or activity carried out through the internet or an electronic means, including an electronic service or transaction conducted in the digital marketplace regardless of how the transaction is carried out^[3].

Exemption of income from tax

The exemption of income tax may be made for a special strategic investment that the NISC shall approve. However, there must be an agreement, which the Cabinet has approved, that provides for such an exemption.

[1] The National Investment Steering Committee is made under section 5 of the Tanzania Investment Act.

[2] Commissioner General refers to the Commissioner General of TRA.

[3] The term 'digital marketplace' is defined as a platform which enables direct interaction between buyers and sellers of goods and services through electronic means.

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Source of payments

The amendment under section 69 expands the meaning of payments considered to have a source in Tanzania to include payments made for harnessing, generating or utilising land, air or water natural resources for the generation of power or anything of value, whether the respective natural resource is located alongside the border or within the country. This means the withholding tax will apply to the supply of power generated from natural resources within Tanzania or alongside the Tanzanian border by a non-resident entity. Therefore, this will affect the power supply by entities from neighbouring countries.

Withholding from investment returns

The amendment to section 82 provides that there will be no withholding of income tax from 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 realised through a digital marketplace

The addition of section 90A to the Act intends to make a non-resident person liable to pay income tax if he has received payment for services rendered through a digital market. Such a person shall pay income tax as a single instalment equal to 2% of the gross income.

The National Payment Systems Act

The electronic money transaction levy reduced

The National Payment Systems Act has been amended in section 46A by the Finance Act. Before the amendment, the section established a levy imposed on mobile money transfer transactions at a rate ranging from TZS 10 to 10,000. The amended section imposes a levy on electronic money transactions at a rate ranging from TZS 10 to 4,000. The Finance Act has essentially reduced the electronic money transaction levy on sending and withdrawing money from the maximum of TZS 10,000 to a maximum of TZS 4,000 on each transaction. The reduction will have a significant impact on the general population as well as the telecoms and financial services sectors in Tanzania. However, please note that the provisions of section 46A will not apply to transactions involving the payment of salaries by employers.

The VAT Act

Exemptions and rates to be specified

The Minister will have powers to exempt VAT on goods and services used in the implementation of special strategic investments. The mandate to exempt will only be exercisable following approval from the NISC and the Cabinet. This change is to attract more investment and align the provisions of the VAT Act and the Investment Act in supporting Government undertakings.

VAT representatives of non-residents

The amendment will remove the requirement for the non-resident to appoint a tax representative where it is impracticable. Instead, where it is impracticable to appoint a tax representative due to business circumstances, the non-resident shall apply to the Commissioner General to be registered in lieu of the tax representative. Please note that the scope of 'business circumstances' is unclear.

The BoT Act

Operation in Government securities, etc.

The amendments will affect section 35(2) of the BoT Act by requiring the total amount outstanding at any time of advances made by the BoT not to exceed 18% of the budgeted domestic revenues of the Governments (the Government of the United Republic of Tanzania and the Revolutionary Government of Zanzibar).

The Electronic and Postal Communication Act

Imposition of fees on television decoder subscriptions

There is an addition of section 164B to the BoT Act imposing a new fee on television decoder subscriptions. The amendment will require anyone with a television decoder to pay a subscription fee ranging from TZS 500 to TZS 2,000. However, the Minister for Information, Communications and Information Technology shall, after consulting with the Minister, make regulations that will prescribe the manner and modality for collecting and accounting for the fee.

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The Land Act

Rent

The amendment to section 33(11) of the Land Act imposes an interest of 0.5% per month where rent or instalment of rent remains unpaid for a period of six (6) months and interest at the rate of 1% per month where rent or instalment of rent remains unpaid for a period of twelve (12) months. Such interest shall be collected the same way annual rent is collected.

The Minister may upon recommendation from the Minister for Land, exempt the whole amount or part of the interest that has accrued from land rent arrears.

The Excise (Management and Tariff) Act

Payment of duty may be deferred

In accordance with the changes, excise duty shall be payable by any pay-to-view television service provider using a cable, terrestrial infrastructure, satellite, or other technology when the service is supplied.

Other laws

The exclusive mandate of the Tanzania Shipping Agencies Corporation (TASAC)

Section 7(1) of the Tanzania Shipping Agencies Act has been amended to narrow the exclusive mandate TASAC has on clearing and forwarding certain imports and exports. TASAC now has the exclusive mandate to carry out clearing and forwarding functions relating to the import and export of mineral concentrates, chemicals used by mining companies, arms and ammunition, Government trophies and live animals. Initially, its mandate extended to the import and export of minerals, machinery, equipment, and petroleum.

The Export Tax Act

Schedule to be amended

The exporter of copper waste or scrap metals of Headings 72.04 and 74.04 will be required to pay either 30% of the value of the commodity or USD 150 per tonne, whichever is greater, as a levy for export tax.

The Government Loans, Guarantees and Grants Act

Authority to raise foreign loans

The amendment intends to limit the borrowing authority of the Minister and ensure his borrowing power does not exceed the sustainability threshold indicators from debt sustainability analysis conducted on an annual basis or at any other period as the Minister may deem appropriate.



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