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UK-Zambia business – tax issues

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We are focusing at a very high level on key issues to think about when conducting business between Zambia and the UK. The points discussed may not apply directly to your specific circumstances – so please do take tax advice on any particular questions.

UK tax is also incredibly complex (the legislation is over 17,000 pages) so care should be taken with any UK tax issues in particular.

UK-Zambia double tax treaty

- What is a double tax treaty and why do we care?
- How does the new UK-Zambia treaty change matters?

Different types of business arrangements:

1. Zambian businesses looking to import goods and services from the UK
2. Zambian businesses looking to export goods and services to the UK
3. UK businesses operating in Zambia

Individuals moving between the UK and Zambia

Practical issues



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UK-Zambia double tax treaty

Zambia has a number of double tax treaties, including with China, India, Canada, Mauritius, and a variety of African and European countries.

What is a double tax treaty and why do we care?

- Different countries have different tax regimes – this can lead to income being taxed twice and can create administrative issues.
- Countries enter into treaties to agree between them on who has ‘taxing rights’ to different types of income and profit, and to agree certain administrative procedures.
- There is a treaty between the UK and Zambia, which was agreed in 1972. A new treaty has been agreed, and was passed into law in Zambia in April 2015, though is not yet in force.

What does the treaty cover?

- The treaty covers:
 1. When a UK business operating in Zambia needs to pay taxes here i.e. when has a 'branch' been established in Zambia.
 2. How dividend, interest, royalty and fee payments from Zambia to the UK should be taxed. In particular, this can allow for a reduction in withholding tax rates from the standard Zambian rates of 15% or 20%
 3. How individuals who move from one country to the other should be taxed?
 4. How should employment income and directors fees earned by a UK resident individual in Zambia be taxed?
- If the treaty is silent on a point then the Zambian tax rules apply automatically e.g. VAT and property transfer tax/stamp duty are not covered by the treaty.
- National Insurance / NAPSA are also not covered by the treaty.

If you have been relying on the old UK tax treaty then you should re-evaluate what this change might mean.

The treaty changes apply both in Zambia and the UK.

How does the new treaty differ from the old one?

- Much of the agreement is essentially unchanged (although there have been changes to the precise wording to keep it up to date with the latest changes in international tax practice).
- The definition of a ‘permanent establishment’ i.e. a branch has changed. For those businesses operating in Zambia, but who haven't established either a branch or a subsidiary company here in Zambia this could be very important.
- Dividends: under the old treaty, a reduced withholding tax rate of 5% on dividend payments was only available if a UK company held at least 25% of the shares in a Zambian company. Now, this is available for all companies except property owning companies. This compares to 15% in Zambia, and 0% in the UK.
- Interest: a reduced 10% withholding tax rate on interest payments applies under both treaties. This compares to 15% in Zambia and 20% in the UK.
- Royalties: under the old treaty, a 10% tax rate was available on royalty payments to the UK, under the new treaty a 5% rate should be available. This compares to 20% in Zambia and 20% in the UK.
- Fees: under both treaties a 0% rate should be available. This compares to 20% in Zambia and 0% in the UK.



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Different types of business arrangement

Different businesses

- There are a variety of different ways in which businesses can trade between the UK and Zambia. Different businesses and different operations have different tax consequences.
- We are going to focus on three different scenarios:
 1. Zambian businesses looking to import goods and services from the UK
 2. Zambian businesses looking to export goods and services to the UK
 3. UK businesses operating in Zambia

Zambian businesses looking to import goods and services from the UK key issues

Importing goods:

- Would VAT at 20% / 5% be due in the UK?
- Would customs & excise duties be due in the UK?
- Would customs, excise & VAT (at 16%) be due in Zambia?
- Who is responsible for these?

Importing services:

- Would withholding tax be due at 20%?
- Should you account for reverse VAT at 16%?

If you are dealing with related parties, you need to think about transfer pricing.

Zambian businesses looking to export goods and services to the UK

Exporting goods:

- Would VAT at 16% be due in Zambia – VAT Rule 18?
- Would customs & excise be due in Zambia?
- Would VAT at 20% / 5% be due in the UK?
- Would customs & excise be due in the UK?
- Could you be establishing a branch in the UK?

Exporting services:

- Should VAT be due in Zambia?
- Should reverse VAT be due in the UK?
- No withholding tax!
- Could you be establishing a branch in the UK?

If you are dealing with related parties, you need to think about transfer pricing.

UK businesses operating in Zambia – key issues

- What operations are you undertaking – when will a business become taxable in Zambia (when is a branch established?).
- What structure do you want to use – branch of UK company, or subsidiary of a UK company?
- How do you want to finance the new operations – equity, shareholder debt, third party debt?
- How do you want to deal with ongoing head office/management/royalty fees?
- Who should be the directors of the company, and where are they based?
- How should expatriates be treated?



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Individuals moving between the UK and Zambia

Individuals moving to Zambia from the UK

- The UK and Zambia have different rules for determining tax residency – so without the treaty an individual could be resident and have to pay tax in both countries. The treaty gives a series of tests to determine where an individual is resident, but the rule of thumb is a 183 day (6 months) test.
- If an individual becomes resident in Zambia then they should pay tax on worldwide interest and dividends as well as Zambian sourced income (e.g. employment income, rental income etc.).
- If withholding tax has already been deducted e.g. on interest income, then a credit should be available here in Zambia for the tax already paid i.e. you only pay a ‘top-up’ tax here in Zambia.
- Even if an individual is here in Zambia for less than 6 months then generally Zambian tax and NAPSA should still be due on any income ‘sourced’ in Zambia i.e. employment income earned here.
- There is an exception under the treaty for individuals working for a UK based employer who are present in Zambia for less than 183 days.
- The treaty does not apply to National Insurance so UK individuals who have moved to Zambia and are still employed by a UK company may still have to pay NIC for 52 weeks.



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Practical issues

Different types of business arrangements

- Have you got all limited deduction directives in place to apply a reduced withholding tax treaty rate? These should be renewed annually.
- Have your foreign service suppliers appointed tax agents, and if not are you accounting for reverse VAT?
- If you are exporting goods, then are you collecting the documentation needed for VAT Rule 18?
- Is your transfer pricing policy up to date, accurate and relevant for Zambia?
- Have you been deducting PAYE and NAPSA from expatriates?



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