

4 July 2022



Finance Act 2022 - 120 Second Overview

- Amends 35 different Acts
- BRELA to apply AML's 5% BO threshold
- Copyright levy introduced
- Introduces fees on television decoder subscription
- Foreign vehicle transit fee reduced
- Definition of business extended
- CIT and VAT exemptions available under TIC enhanced
- Special income tax rules for transportation business articulated
- Guidance on income tax credits between Mainland Tanzania and Zanzibar provided
- Single installment digital market tax introduced
- Mandatory insurance prescribed
- Interest on land rent arrears reduced
- LGAs to establish one-stop business centers
- OSHA Compliance License to be issued within 7 days
- TASAC's exclusive mandate narrowed
- Holders of NIDA cards to be issued with TINs
- Tax Consultants to be licensed by Commissioner
- Compliance deadline for maintaining primary data server extended
- Storage facilities compulsorily registrable
- TRA can continue granting interest and penalty waivers
- Provisions on amicable settlement of tax disputes clarified

On 28 June 2022, the National Assembly of the United Republic of Tanzania passed the Finance Bill, 2022. The said Bill was assented to by the President of the United Republic of Tanzania on 30 June 2022, hence effectively making it the Finance Act, 2022 (the Finance Act).

Briefly, the Finance Act amends 35 different pieces of legislation cutting across different aspects, including compliance, tax and regulatory matters. The amended Acts include, among others, the Business Names (Registration) Act, the Companies Act, the Trustees Incorporation Act, the Copyright and Neighbouring Rights Act, the Electronic and Postal Communications Act, the Foreign Vehicles Transit Charges Act, the Income Tax Act, the Insurance Act, the Land Act, the Local Government (District Authorities) Act, the Local Government (Urban Authorities) Act, the Occupational Safety and Health Act, the Tanzania Investment Act, the Tanzania Shipping Agencies Act, the Tax Administration Act, the Tax Revenue Appeals Act, and the Value Added Tax Act.

Regarding Beneficial Owner (BO) compliance requirements, the Business Names (Registration) Act, the Companies Act and the Trustees Incorporation Act have been amended by the Finance Act mainly to recognize the beneficial owner threshold of 5% as provided for by the Anti-Money Laundering Act.

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In so far as fees and levies are concerned, the Finance Act amends several pieces of legislation to introduce new fees and levies. For example, the Copyright and Neighbouring Rights Act and the Electronic and Postal Communications Act have been amended to introduce the copyright levy and the television decoder subscription fee, respectively. Further, the foreign vehicle transit fee chargeable under the Foreign Vehicles Transit Charges Act has been reduced from USD 16 to USD 10 for every 100 kilometers for vehicles exceeding 3 axles.

Furthermore, the Income Tax Act (the ITA) has been amended by the Finance Act in several aspects. The amendments extend the definition of business for income tax purposes to capture transactions or activities carried out through the internet or an electronic means including electronic services or transactions conducted in the digital market place regardless of the manner in which such transactions are carried out. Also, the ITA has been amended to provide for special rules and tax rates applicable in determination of income tax liability of resident persons engaged in transportation of passengers or goods.

Moreover, the amendments to the ITA allow resident persons, other than partnerships, conducting business in both parts of the Union, to claim tax credits for any income tax paid in Mainland Tanzania or Zanzibar, as the case may be. Also, the ITA has been amended by the Finance Act to introduce the single installment tax on income realised through digital market place. According to the said amendments, payment (sourced in Tanzania) to a non-resident person for services rendered, other than a payment made in the course of conducting business, is now liable to income tax in Tanzania at the rate of 2% of the gross payment. In terms of remittance of such tax, the law requires the same to be done on or before the seventh day of the month following the month to which the payment relates. Further to the above, the ITA, the Value Added Tax Act (the VAT Act) and the Tanzania Investment Act have been amended to specifically enhance the income tax and VAT exemptions available through the Tanzania Investment Center (TIC). Sections 10 and 6 of the ITA and VAT Act, respectively, have been amended to permit grant of exemptions for special strategic investments approved by the National Investment Steering Committee under the Tanzania Investment Act.

Apart from the above, there are other amendments with fiscal implications that have been brought by the Finance Act. The Insurance Act has been amended to require a mandatory insurance cover when engaging in importation of goods or operating a public market, commercial building, marine vessel, ferry or pantoon. The Land Act has been amended to reduce Interest on land rent arrears from 1% per month to 0.5%. Further, the Local Government (District Authorities) Act, and the Local Government (Urban Authorities) Act have been amended to require the Local Government Authorities (LGAs) to establish one-stop business centers for coordinating, encouraging, promoting and facilitating business within their areas of jurisdiction. Furthermore, the Finance Act has amended the Occupational Safety and Health Act to oblige the Occupational Safety and Health Authority (OSHA) to issue Compliance Licenses within 7 days upon meeting the application requirements. Previously, no such timeframe was provided in the law.

In the area of shipping, the Finance Act amends the Tanzania Shipping Agencies Act to narrow the exclusive clearing and forwarding mandate of the Tanzania Shipping Agencies Corporation (TASAC) on certain imports and exports. Before the amendments, TASAC was enjoying exclusive mandate in functions relating to import and export of minerals, mineral concentrates, machineries, equipment, products or extracts related to minerals and petroleum, arms and ammunition, live animals, Government trophies and other goods as the Minister would prescribe. Following the amendments, TASAC now retains exclusive mandate to deal with import and export of arms and ammunition, mineral concentrates,

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chemical used by mining companies, Government trophies and live animals under the Wildlife Conservation Act. Specifically, this implies that the exclusive mandate to deal with machineries, equipment, products or extracts related to minerals and petroleum has been removed from TASAC.

Regarding tax administration, there are a couple of amendments to the Tax Administration Act (the TAA) focusing on various areas. The TAA now obliges the Commissioner General of TRA (Commissioner) to register and issue Taxpayer Identification Number (TIN) to every Tanzanian citizen who has been registered and issued with a National Identification Number (NIDA card). This requirement will come into operation on 1 January 2023. Also, the TAA now mandates the Commissioner with the power to license individuals to act as tax consultants. Previously, the Commissioner's mandate in relation to tax consultants was limited to just registering them. Licensing of tax consultants may imply vesting more regulatory powers to the Commissioner.

Further, the TAA has been amended to require individuals, establishing storage facilities with the aim of keeping goods for business purposes, to register the facilities with the Commissioner. On top of the registration, the owner of the storage facility has a duty to keep records of all stored goods and report to the Commissioner on a monthly basis in the manner prescribed by the Commissioner. Failure to observe the above requirements attracts a penalty and one may be held liable to pay detected loss of revenue on top of the penalty. Furthermore, the deadline to comply with the requirement to maintain a primary data server, which was supposed to come into effect 12 months from 1 July 2021, has been extended to 1 July 2022. This, therefore, means that the 12 month compliance period will start counting from 1 July 2022, hence making the new deadline to be 30 June 2023. What also appeared in the Finance Bill requiring the Minister for Finance to approve any interest and penalty waivers has been dropped in the Finance Act meaning that the TRA can continue granting interest and penalty waivers when taxpayers volunteer to resolve disputes expeditiously and amicably out of Court, which helped to boost collections in the financial year 2021/2022.

Finally, the Tax Revenue Appeals Act (the TRAA) has been amended by the Finance Act to bring more clarity on the provisions relating to amicable settlement of tax disputes. In 2021, the TRAA was amended to expressly provide for an opportunity to have tax disputes settled amicably through mediation. In practical application of such provisions, there were questions as to whether the law required mediators to be appointed to assist in settling tax disputes. In order to clear such uncertainties, the TRAA has been amended by deleting the word 'mediation' and replacing the same with the words 'amicable settlement.' This now confirms the position that the focus of the law is on amicable settlement without necessarily appointing mediators.

To read the Finance Act, 2022 [click here](#).

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