

Tax On The Sale Or Transfer Of Mineral and Petroleum Licenses and Related Companies Shares

20 November 2024

Presentation Outline

1. NamRA's Vision
2. NamRA's Mandate
3. Paragraph (o) and (q) of the gross income definition
4. Application of the act and expectations



NamRA's Vision



To be a world-class revenue agency, serving with passion to positively impact the livelihoods of every Namibian.



NamRA's Mandate



1

- To assess and collect taxes and duties on behalf of the State.
- To enforce the revenue, customs and excise laws, with respect to the collection of revenue as provided by those laws.

2

- To enforce the revenue, customs and excise laws, with respect to the collection of revenue as provided by those laws.

3

- To provide customs and excise services that facilitate trade, maximise revenue collection and protect Namibian borders from illegal importation and exportation of goods.

4

- To improve services delivery to taxpayers and promote compliance with the revenue laws.

Para (o) and (q) of the gross income definition



Para (o)

- Par (o) - Any amount received or accrued as consideration or the open market value by way of sale, donation, expropriation, cession, grant or other alienation or transfer of ownership of a mineral license or right to mine minerals in Namibia,
 - includes a sale, donation, expropriation, cession, grant or any other alienation or transfer of ownership of any share or member's interest in a company that holds a mineral license or mineral right whether directly, or indirectly,
- Less
- the acquisition of the mineral license or mineral right

Para (q)

- Par (q) -Any amount received or accrued as consideration or the open market value by way of sale, donation, expropriation, cession, grant or other alienation or transfer of ownership of a petroleum license or right to mine petroleum in Namibia,
 - includes a sale, donation, expropriation, cession, grant or any other alienation or transfer of ownership of any share or member's interest in a company that holds a petroleum license or petroleum right, whether directly, or indirectly
- Less:
- Acquisition Costs
 - Exploration Expenses
 - Costs of improving the value of the petroleum license/right.

Para (o) and (q) of the gross income definition



Para (o)

- However, the acquisition cost MAY not create a loss.

Consideration

- Amount received or accrued in money or in kind as a result of the sale or transfer or the open market value.
- Open market value is the price at which such mineral license or share will sell in a competitive market between a willing buying buyer and a willing seller.

Less: Deductible Costs

- Acquisition costs such as license application fees to MME, cost to obtain an environmental clearance certificate and any other professional fees incurred to obtain the license/rights

Para (q)

- However, the costs above MAY not create a loss.

Consideration

- Amount received or accrued in money or in kind as a result of the sale or transfer or the open market value.
- Open market value is the price at which such petroleum license or share will sell in a competitive market between a willing buying buyer and a willing seller.

Less: Deductible Costs

- Acquisition Costs such as license application fees to MME, cost to obtain an environmental clearance certificate and any other professional fees incurred to obtain the petroleum license/rights.

Par (o) and (q) of the gross income definition



Para (o)

- effective 1 March 2012 for individuals and 1 January 2012 for Companies.
- was amended effective 30 December 2015 to include direct and indirect disposal of shares.

Para (q)

- Exploration Expenses such as costs incurred for prospecting, scoping, feasibility fees, desktop studies etc.
- Costs of improving the value of the petroleum license/right which are costs that will be of benefit and value to the liense area such incurred before production e.g. seismic surveys, interpretation of survey data, drilling campaign costs etc.
- effective 30 December 2015

Application of the Act and Expectations



- Every individual or company that has entered into such a transaction since the effective dates should declare in the form of submitting an income tax return.
- Individuals - tax rate applicable to individuals will apply
- Companies – corporate tax rate of 32% will apply
- Income tax returns already submitted will be revised for sales or transfers done but not declared in the applicable tax year.

Application of the Act and Expectations



- Sec 15 (9) of the income tax act deems any amount referred to in par (o) and (q) of gross income definition is deemed to be received or accrued in Namibia irrespective of :
 - Whether the transaction was concluded in or out of Namibia
 - Place where payment is made
 - Place where funds from which payment is made are held
- Therefore, non-Namibian residents or companies that are not registered for tax in Namibia but have entered into such transactions must comply by registering as a taxpayer in Namibia, declare through submitting an income tax return and pay their dues.



Thank You