

Zambia's new mining tax regime

The Zambian government have announced a new mining tax regime, effective from April this year, which is designed to capture a greater share of windfall profits for the Zambian government. If implemented by the mining companies, this will greatly increase the amount of money available for public spending on poverty reduction. The government will be able to improve education and health services, and make investments that will create more jobs and livelihoods for Zambian citizens.

This is how new taxes will more than double existing government revenue from mining:

1. The value of copper sales, which determines how royalties and taxes are calculated by Zambian companies, will no longer be determined by the price companies claim they are being paid by their buyers overseas. Instead, it will be calculated based on the prices of copper on international commodity exchange markets. This will introduce much more transparency into companies' profit calculations.
2. The sales tax (or royalty) on the value of the copper ore produced will increase from 0.6 per cent to 3 per cent
3. In our understanding, an additional royalty (called a windfall tax in the new tax regime) will be charged on the sales value of copper for every 50 cents increase in the price of copper per pound on international copper exchanges. This could push the 'sales tax' or royalty on copper up to over 5 per cent, which is closer to the average international mineral royalty rate.
4. Companies will pay corporate profit taxes of 30 per cent (up from 25 per cent) on the profits they declare after deducting costs and royalties (see above)
5. In addition to the 30 per cent corporate profit tax, companies will also pay a 'variable' profit tax. This means that companies, even after paying 30 per cent corporate tax, may still have profits higher than 8 per cent of their overall income, mostly as a result of the boom in commodity prices. These profits will be taxed at 15 per cent. This tax transfers a fair share of the windfall value of copper to the Zambian government. In the UK, the Labour government implemented a similar tax on North Sea oil companies.
6. Overseas consultants and companies providing services to Zambian copper companies will now be paying a 15 per cent tax on their income in Zambia, up from 0 per cent. The tax paid by such companies and individuals would now be split fairly between the country where they are resident and Zambia.
7. Mining companies will no longer be able to deduct their losses from financial deals (for example hedging of future sales) from taxable income because hedging activities will not be given the same tax treatment as mining activities.
8. Under the current tax regime, mining companies are able to deduct 100 per cent of expenditure on equipment such as machinery from taxable income every year. But as of April, they will only be able to deduct 25 per cent of such expenditure, and only once the project starts operating. Such a measure would reduce the incentive for mining companies to keep on buying equipment to reduce their tax bill in Zambia and it will bring forward their tax payments (as they cannot deduct from their tax bill expenditures on projects that are not yet in operation).
9. In addition, mining companies can no longer deduct from the taxable income on a profitable mining site their capital expenditure on another mining site. While this will increase tax paid, it may discourage local reinvestment of profits. This is the only tax measure we recommend the Zambian government may want to revisit.

There is a very real possibility that some or all Zambian copper mining companies will take legal action against the government. According to the development agreement signed with Konkola Copper Mines, the Zambian government has to provide KCM with 'full and fair' compensation if it changes the tax provisions of the agreement in the 20-year period for which the contract is valid.

The report published by ACTSA, SCiAF and Christian Aid 'Undermining Development: Copper mining in Zambia' explains in detail why this agreement is unfair and has contributed to robbing Zambians of their rightful share of the profits from copper mining.

Should the Zambian government refuse to pay compensation for the additional taxes companies will have to pay under the new tax regime, the mining development agreement says that they can request an international tribunal to decide the amount to be awarded to them. The agreement states explicitly that no other court of law in Zambia or elsewhere could resolve such a dispute.