



# NamRA TAX CAFÉ



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## Dear Readers,

The Namibia Revenue Agency (NamRA) remains committed to continuous tax education to overcome knowledge gaps. It is against this backdrop that we introduced this platform to share with you information from our inhouse experts, which we trust will ensure that you remain well informed, while advising on how to be compliant. We further hope to equip taxpayers with the necessary understanding about the tax legislation and thereby strengthening tax compliance.

Loide Hamutumwa is a Manager: Legal Services at NamRA and was among the first graduates sent out by the Government with funding from Petrofund to study Oil and Gas Taxation in the United Kingdom. Graduated with a distinction in Master of Law: Petroleum Taxation and Finance, she is now capacitated and skilled up through an intensive programme offered by the well-recognised international Centre of Energy, Petroleum, Mineral Law and Policy (CEPMLP), University of Dundee. Scotland.

*Happy Reading*

## NamRA's STRATEGIC PREPAREDNESS FOR TAXING THE EXTRACTIVE SECTOR

Administering government revenue from the extraction of non-renewable natural resources presents special difficulties — but with the right skills and strategy, maximum gains can be generated.

It's crucial to build strong capacity, to optimize revenue streams from the extractive industry, which is significant in Africa. With ongoing exploration activities, it is important to ensure that staff in key operational roles are well-qualified and trained. After all, you can't mine success without digging into talent.

Mandated to collect taxes, NamRA remains adamant and confident not to lose sovereignty by not taxing the companies involved in the extractive activities. NamRA is intentional about investing in its people to build sector focused capacity to respond to the taxing and administrative needs of the of extractive industry in Namibia.

NamRA is committed to ensuring that the Namibian government and its people benefit from the natural resources through a taxation-royalty fiscal regime with direct state participation, while also providing a fair return to the investors. It should be a win-win situation.

NamRA has first recognised the existing capacity gaps, and the skill sets required. The NamRA workforce is continuously being developed with relevant capacity in the under-listed areas which will directly benefit the country:

- ✓ An understanding of the critical policy, taxation and legal issues in the petroleum industry
- ✓ Strong foundation on the principles for effective petroleum taxation regimes including best practices and challenges on fiscal and non-fiscal instruments used by governments to promote natural resource development
- ✓ Robust understanding of the economic evaluation methodologies used for investment decision making

From the policy perspective, the fiscal regime should be well balanced between the investor and the government. However, the existing regime remains untested in absence of production. Key policy and legislative recommendation should be constructively addressed to ensuring that the most suitable mix of tax bases and tax rates meet the Namibia's economic tax policy objectives in terms of revenue, risk, competitiveness, and investment incentives.

Considering the confirmed oil discoveries, there is a strong alignment of the capacity needs and the future developmental needs of Namibia. NamRA play a critical role in revenue collection, thus understanding the financial risk and exposure introduced with large and volatile revenue and investment flows and its impact on the broader macro-economic policy, performance and budgeting process is extremely important to NamRA.

Efforts to prepare for the future are therefore unwavering, particularly considering the public debt vs GDP ratio, highlighting the urgency of ensuring fiscal sustainability through Domestic Revenue Mobilisation (DRM) to finance Sustainable Development Goals (SDGs) and meet the expectations of the Namibian people.

It goes without saying that the burgeoning oil and gas sector come with its problems and the measures in place should be aligned to adequately reap the benefits of a lucrative hydrocarbon industry, for example:

- ✓ Old Double Taxation Agreements (DTAs) or "tax treaties" might not respond to new development as the world is advancing and may limit taxing rights, and tax avoidance through treaty shopping.
- ✓ Companies may seek to avoid tax on gains, and this may present special challenges to tax administration. The tax justice proposition is to prevent creating an invisible Permanent Establishment.
- ✓ Companies may opt to operate through agency and may avoid paying taxes in the source country by restructuring their activities to not exceed the time threshold for triggering a taxable presence under the tax treaty. It can be challenging to trigger a Permanent Establishment where subcontractors provide services during exploration stage given the mobility of the assets, and the short durations of the services provided which makes difficult to trigger a fixed place of business in the source country.

NamRA is cognisant of the challenges associated with administering natural resources revenue as a result of vertically integrated multinationals, making the value chain complex and costly to manage. Continuous engagement with regional and international partners helps NamRA strive to be remembered for its disciplined tax administration and fair enforcement. The extractive industry should fuel a better future for Namibia, and this cannot be overemphasized.

Through in-depth analysis of the tax treaties and the domestic law, NamRA continuously assess whether non-resident companies or non-resident persons qualify for a relief under a tax treaty and verify the companies or persons whose tax obligations are affected by the treaty and how to apply the distributive rules of the treaty.

NamRA is proactive in dealing with issues such as Transfer Pricing, non-disclosure of income, treaty shopping and use transnational corporate structures or financial instruments to shift profits to low or no-tax jurisdictions. The Agency is committed to safeguarding the tax base against transfer pricing and profit shifting to overseas tax havens.

As the host country, Namibia has the right to tax. The definition of “Namibia” for tax purposes was amplified in the Income Tax Act No 24 of 1981 as amended, subjecting companies operating in the Exclusive Economic Zone of Namibia (EEZ) to the fiscal laws of Namibia, further strengthening the source of the income to be from Namibia, as defined in the Act.

Relevant tax laws will be implemented, penalties will be imposed for non-compliance, regional and international tax instruments will be invoked to request and exchange information and tax crimes will be litigated to recover state revenue from its natural resources.

Through the NamRA Leadership Model, which is people-centred, the skills and ambitions of its employees will continuously be nurtured to improve the quality of work and serve taxpayers and traders with passion. As part of the NamRA strategy in “Shaping the Tax, Customs and Excise Professionals of the Future”, the workforce is motivated to upskill and appreciate the magnitude of taxing and administering the Petroleum and Green Hydrogen activities in Namibia. It is an exciting moment for NamRA.