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Zambia VI: Tax administration

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1 Introduction: Structure of Zambia Revenue Authority

As explained in V/1.1, the collection of taxes, levies, fees, duties etc. is a shared undertaking by the Zambia Revenue Authority (ZRA), municipal bodies and specially commissioned agents. Of those, ZRA is by far the largest and most important institution.

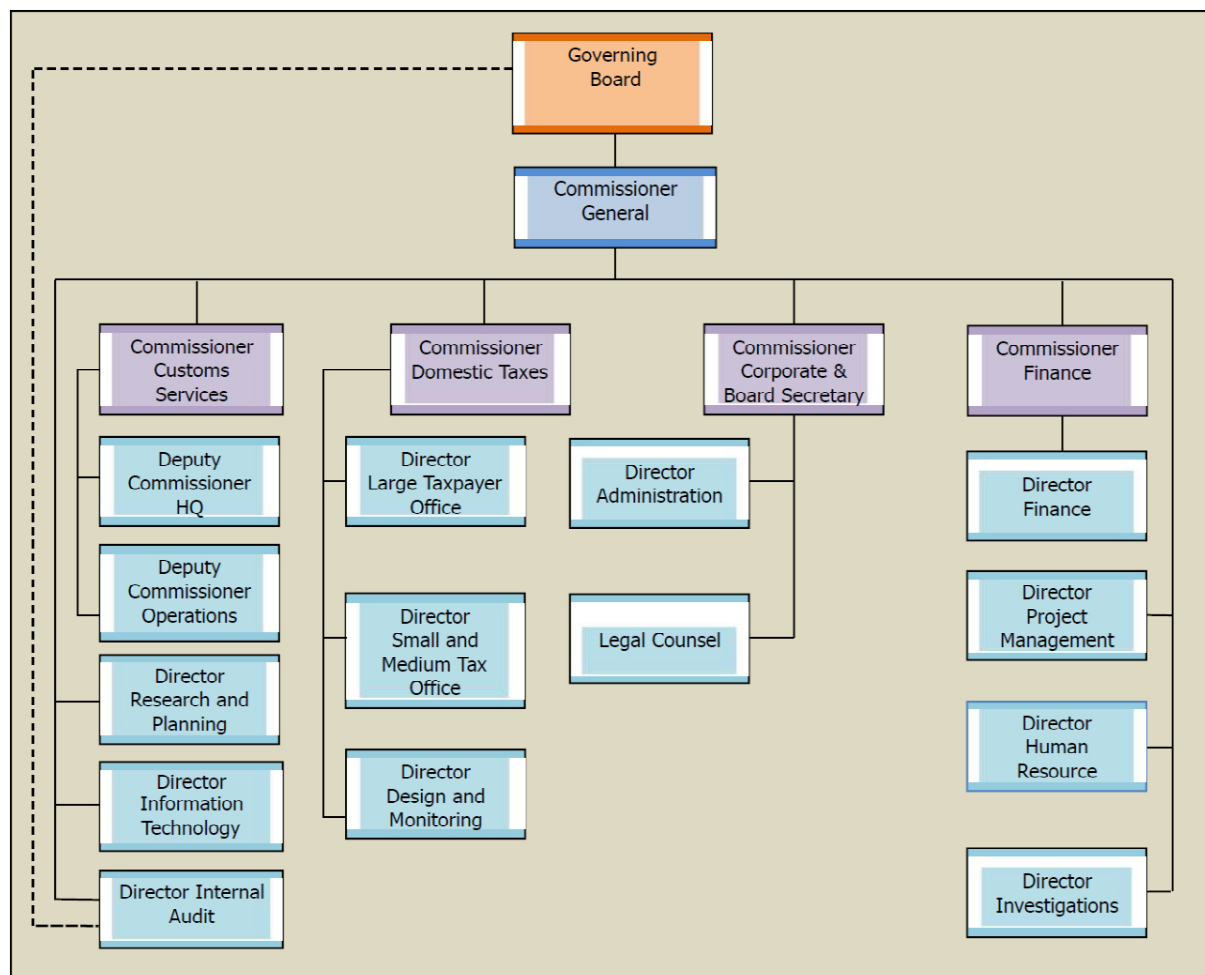
The ZRA was established on 1st April 1994 as a corporate body, under the Zambia Revenue Authority Act, Chapter 321 of the Laws of Zambia enacted in 1993. Pursuant to this Act, the Authority is charged with the responsibility of collecting revenue on behalf of the Government of the Republic of Zambia under the supervision of the Minister of Finance.

The Operations of ZRA are overseen by the Governing Board. The membership of this Board as provided for in the Act includes; the Secretary to the Treasury, the Permanent Secretary – Ministry of Justice; the Governor of the Bank of Zambia; representatives from the Law Association of Zambia; the Zambia Association of Chambers of Commerce and Industry, the Bankers Association of Zambia, the Zambia Institute of Chartered Accountants; and two other members appointed by the Minister of Finance. The Chairman of the Board is elected from amongst its members.

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The Chief Executive Officer of the ZRA is the Commissioner General who is appointed by the President of the Republic of Zambia without parliament having a say in it.¹

Graphic 1 Organogram of ZAR



Source 1 (Zambia Revenue Authority, 2015, p. 11)

The ZRA has two divisions that are mandated to collect tax revenue which are Customs Services Division and Domestic Taxes Division and are of specific interest for this report:

Customs Services

The Division is responsible for the administration of the Customs and Excise Act Chapter 322 of the Laws of Zambia. In addition, the Division is also responsible for securing the supply chain, protection of society through the control of imports of prohibited substances and the provision of trade statistics. The Division also facilitates international trade. Taxes

¹Zambia Revenue Authority (ZRA). Retrieved April 25, 2015 from <https://www.zra.org.zm/commonHomePage.htm?viewName=History>

administered by the Division are; customs duties, export duties; excise duties; import VAT; motor vehicle fees and carbon emissions surtax.

Domestic Taxes

The Division is responsible for the administration and collection of all domestic taxes apart from domestic excise duty that is collected by Customs Services Division. The Division administers the Income Tax Act, Chapter 323 of the Laws of Zambia; the Value Added Tax Act, Chapter 331 of the Laws of Zambia; the Property Transfer Tax Act, Chapter 340 of the Laws of Zambia; and the Medical Levy Act, NO. 6 OF 2003. In addition, the Division collects mineral royalty pursuant to the Mines and Minerals Development Act, No. 7 of 2008.

There are three directorates under Domestic Taxes Division namely; Design and Monitoring (D&M), Large Taxpayer (LTO) and Small and Medium Taxpayer office (SMTTO). Taxpayer segmentation is according to the annual turnover; LTO – ZMW 20million and above per annum, MTO- below ZMW 20million but above ZMW 200,000 per annum and STO – ZMW 200,000 and below. Despite this segmentation, all financial institutions and mining companies (including small and medium mines) regardless of the turnover are classified under LTO. A specialized Mining Unit under LTO is responsible for all mining tax affairs.

For more details, also on other departments, see Annex 1 to this chapter.

2 ZRA Workforce and performance

2.1 The situation

Divided into the operational and support segment, the staff distribution 2013/2014 is as follows:

Table 1 Staff Classification as operations and support 2013/2014

DIVISIONS/DEPARTMENTS	2014	2013
OPERATIONS:		
Domestic Taxes	432	426
Customs Services	518	541
Investigations	34	31
Sub Total	984	998
SUPPORT SERVICES:		
Commissioner General's Office	14	14
Research & Planning	30	28
Corporate Services	217	219
Human Resource	30	27
Finance	80	81
Internal Audit	19	19
Information Technology	59	57
Projects	6	6
ZRAIC	-	1
Sub Total	455	452
Grand Total	1,439	1,450

Source 2 (Zambia Revenue Authority, 2015, p. 46)

In 2012, the ZRA had a total staff complement at 1,355 out of the approved 1,482 staff needed. This shows a deficit of 127 staff. In Core Divisions such as Domestic Taxes out of the approved staff establishment of 438, they were 404 staff. Further, in Customs Division they were 514 employees out of the approved 575 (Zambia Revenue Authority, 2013, p. 43).

In 2013, there were 1,450 staff against the approved staff complement of 1,482 representing a deficit of 32 staff. In Domestic Tax Department/Division they were 426 staff out of the approved 434, while in Customs division they were 541 staff out of the approved 560 staff (Zambia Revenue Authority, 2014, p. 50).

In 2014 there were 1,439 staff against the approved staff of 1,557, the decrease to be explained due to a decrease in the net staff complement of Customs and Corporate services and Finance Division.

ZRA has been implementing a Performance Management Development Contract. In 2012, 25.8% of the workforce exceeded their performance, 62.7% meet their targets and 0.4% of the workforce did not meet their performance target. In 2013, 26.5% of the employees exceeded their performance, 68.2% met their target and 0.3% did not meet their performance targets (Zambia Revenue Authority, 2012+2014).

2.2 Quantitative problems: Staff shortage

ZRA has competent personnel in most of the departments to preside over matters of taxation. However, while there are all the relevant departments, divisions and qualified personnel, the question of an adequate number of personnel or staff to effectively implement departmental functions cannot be overlooked.

- In 2012, the ZRA had a total staff complement at 1,355 out of the approved 1,482 staff needed. This shows a deficit of 127 staff.
- In 2013, there were 1,450 staff against the approved staff complement of 1,482 representing a deficit of 32 staff.
- In 2014, the Board approved the increase of the staff establishment from 1,482 employees to 1,557 employees while the “actual staff number declined from 1450 in December to 1439 as at the end of 2014 on account of attrition (Zambia Revenue Authority, 2015, p. 5)

In terms of the ratio per 1,000 taxpayers, there are only 2 ZRA staff which is the lowest among the three countries participating in this research project.²

Finally one should be mindful of separations from ZRA. An analysis of exit interviews conducted indicated that resignations are mainly as a result of career progression and better conditions of service offered elsewhere (Zambia Revenue Authority, 2014, p. 50).

Table 2 Separations recorded 2013/2014

	Dismissal	Termination of Contract/ Employment	Contract Expiry	Resignation	Retirement	Medical Discharge	Death	Total
2014	21	1	2	18	15	2	9	68
2013	9	10	6	21	23	0	9	78

Source 3 (Zambia Revenue Authority, 2015, p. 47)

Robert Liebenthal the former Economics Association of Zambia (EAZ) Vice President and International Growth Centre (IGC) Senior Country Advisor argues that, “collecting more tax revenue in Zambia especially from the mining sector will require the ZRA to employ more staff with experience”. R. Liebenthal (Personal Communication, November 21, 2014). It is

² Fjeldstad & Heggstad, 2011, p. x. Retrieved from <https://www.cmi.no/publications/file/4045-taxation-mozambique-tanzania-zambia.pdf>

therefore necessary that the Authority has enough staff to in order to effectively collect taxes.

It is imperative that the ZRA improves its conditions of service in order to retain staff key experienced and qualified staff.

2.3 Qualitative problems: Staff training

There is need for more training of tax administration staff to assist them in keeping abreast of legal developments and enhance their use of latest information technology. A key informant for this study who worked for ZRA for 8 years in Middle Management argues: "ZRA staff are competent and professional. However, there is need to enhance utilization of informatics. ZRA staff needed more training in latest Information Communication Technology ICTs."

In 2012, a total of 1,536 staff were trained in various programmes while in 2013, a total of 1,632 staff were trained in various programmes. In 2014, a total of 2,437 staff participated in those programs (Zambia Revenue Authority, 2015, p. 47)

The number of trained appears to be more than the number of staff employed. This is due to the fact that some staff members attended more than one training.

3 Modernization efforts & ICT

3.1 Reasons

There are various reasons for modernization and computerization:

- Curbing costs in tax administration
- Making more efficient use of human resources, i.e. employing people there where computers come to their limits
- Bringing the taxation system closer to the people by making it more accessible and easy to use
- Making use of computers to detect fraud and potential fraud

3.2 Departments and instruments

3.2.1 Customs & Excise

A first instrument in getting a better grip on exports and imports is the ASYCUDA (=Automated System for Customs Data) system offered by UNCTAD. It exists in three versions and ZAR uses ASYCUDA World and ASYCUDA++.³ ASYCUDA is a computerized system facilitating cross

³ For more information on ASYCUDA see <https://www.asycuda.org/asyversions.asp>

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border trade and is used by over 85 states worldwide. By 2014, Zambia has 28 stations able designated for automation (Zambia Revenue Authority, 2015, p. 6+18).

Other instruments are scanning devices at border stations to identify easily the contents of lorries and container and to compare that with declaration in order to identify misdeclaration.

Table 3 Enforcement outcomes 2014

Category	Number		Value		Variance (K'Mn)		% Variance	
	2014	2013	2014 (K'Mn)	2013 (K'Mn)	Number	Value	Number	Value
Interception	1,448	1,120	269	251	328	17	29%	6%
Detentions (R.I.H)	82	176	15	14	(94)	1	(53)%	7%
Seizures	27	104	4	11	(77)	(7)	(74)%	(170)%
Total	1,557	1,400	288	276	157	11	11%	4%

Source 4 (Zambia Revenue Authority, 2015, p. 16).

3.2.2 Tax Online

Tax online is a program designed for the use by citizens and businesses so that taxpayers are able to fulfill most, if not all, their obligations online via e-registration, e-filing of monthly or annual returns, e-declarations or making electronic payments. The program commenced in 2013 and was moving 2014 into the second phase, assisting ZRA to improve on audits and assessment of taxpayers, debt collection, objections and appeals, investigations and refunds. The number of user rose from 28,469 (October 2013) to 32,938 in 2014, most noteworthy was the increase in the filing of tax returns which increased 54% during this period of time (Zambia Revenue Authority, 2015, p. 17f.)

3.2.3 Enterprise Risk Management System

Also Risk Management programs are introduced and implemented at ZRA from 2014 onwards especially in the area of the outreach to businesses. It should assist tax officials to determine negligible, moderate and high risk behavior by businesses and their owners by introducing

“risk appetite versions for use depending on the complexity of the situation being analyzed.... Previously all identified risks were treated, unless they were deemed to be within acceptable exposure levels, in which case they were simply noted in the Risk Register. In 2014, active monitoring was done through introduction of Key Risk Indicators on which data was collected on a monthly basis for the purpose of gauging changes in exposure levels.” (Zambia Revenue Authority, 2015, p. 17).

3.3 Data bases and data exchange

To make good use of ICT, also correct data bases and their interlikeage is important. Here, good developments are under way: Regarding land ownership, government wants to address the lack of land titles and the confusion and trickery going along with it: So far, only 200,000 parcels of land are on title and the rest is owned by the state. Here, government “will in 2017 commission a pilot programme in Lusaka that will commence the process of titling all land in the province.” With that, titled citizens will have easier access to credit and credit extension and it will improve the collection of land based taxes, levies and rates (Mutati, 2016, p. 14f.). This, however, needs to be done with great care to avoid deficits and ambiguities, which would after completion still open the way to tax dodging and trickery.

Currently, however there is limited interlinkeage of the ZRA databases to other departments e.g. companies registration agency, all the banks, etc. Here, at times, data and privacy protection issues prevent the exchange of information which leads to important knowledge deficits: PACRA, for example, may have information which ZDA or ZRA does not have. The discussion of when the protecting data leads to the concealment and protection of tax cheating is an important one and it has to be resolved by establishing a “hierarchy” or protective goods: For example, whether protecting corporate interests are to be valued higher than the protection of the national interest, whether the protection of corporate data is justified even if information would be needed to prevent criminal activities etc. Since tax secrecy is a high threshold and protection against misuse, however, the transferral of taxation relevant data towards ZRA since ZRA officials are bound by protecting private and corporate interests against misuse.

3.4 Problems

Computerized systems depend not only on the knowledge and expertise of those sitting in front or the backend, but also of simple things as electricity and internet connectivity. The latter is, for example, responsible for deficits in processing and assessment and therefore the collection of revenue at border stations.

Graphic 2 Processing efficiency in Tax Yield from all taxable transactions (K'million)

Year	Un-assessed taxes	Registered but not assessed	Registered, assessed and paid	Total collectable amount	Percentage un-assessed	Percentage unpaid	Percentage receipted
2014	139.5	326.2	10,487.8	10,953.6	1.27%	2.98%	95.75%
2013	288.1	145.9	10,100.3	10,534.2	2.73%	1.38%	95.88%

Source 5 (Zambia Revenue Authority, 2015, p. 32)

The usefulness of computerization and ICT is also hampered if information entered is incomplete, faulty or missing, which can be happening unintentionally or intentionally. Here, for example, the surveillance of real property is good and important.

3.5 Conclusion

Regarding taxpayers, the need of more computerization seems to be seen and accepted and a survey established that in principle online procedures are valued. On the other hand, they can only be fully used when people are sensitized and trained in utilization (see below 4 and 13.3)

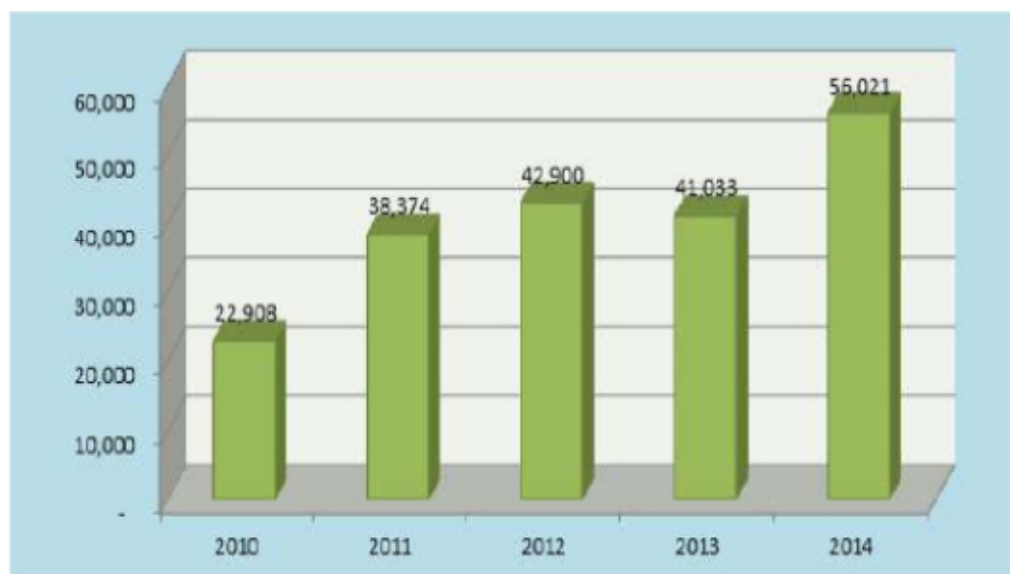
The temptation to think, that computerization and ICT technique speeds procedures up, maybe right in the long run. At the beginning, it requires a lot of training, education and service because all involved – tax officials, ordinary taxpayer and business persons – may be confused and in need of training, advice and support. Here, efforts need to be stepped up considerably and here even ZRA itself admits that they are behind target (Zambia Revenue Authority, 2015, p. 12)

4 Efforts to improve compliance

4.1 Registration

Registration efforts of taxpayers continued and the number of taxpayers receiving their Tax Identification Pin is continually on the increase:

Graphic 3 Number of TPIN registrations 2010-2014



Source 6 (Zambia Revenue Authority, 2015, p. 32)

The same trend applies in the overall number of active registered taxpayers: It rose from 134,133 (2013) to 159,525 in 2014 (Zambia Revenue Authority, 2015, p. 32).

Increase in formal registration is also seen to be a promising approach to reduce the extent of the informal economy (see below 5.6 as well as VII/2.2 and 7.7).

4.2 Advice Services

Taxpayer education is high on the agenda of ZRA and a number of outreach initiatives towards the population have been undertaken.

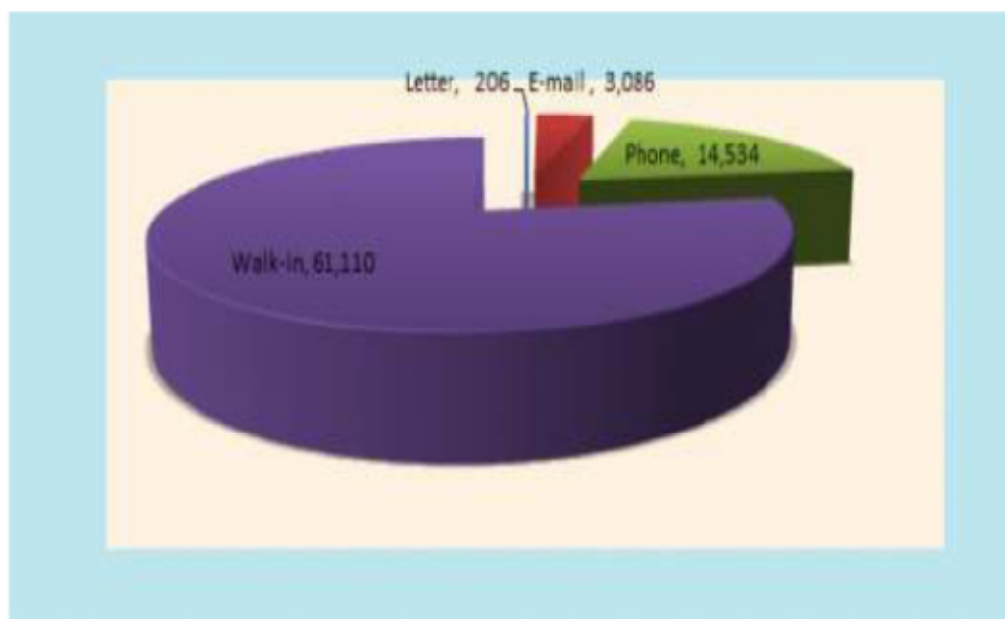
Table 4 Outreach activities

Outreach Activity	Number conducted
Lectures	21
Tax presentations to stakeholders	62
Tax clinics	24
Radio programmes	52
Door to door campaigns	45
Total	204

Source 7 (Zambia Revenue Authority, 2015, p. 35)

Regarding contacts of ZRA initiated by the taxpayers one has to note the small number of those doing it online: The majority still relies on personal visits, phone or letter.

Graphic 4 Contact with Advice Centre 2014



Source 8 (Zambia Revenue Authority, 2015, p. 35)

4.3 Audits

Furthermore, ZRA undertakes tax audits in order to ensure that there is compliance with the tax law of the country.

- In 2012, 10,244 tax audits were conducted and K303.6 billion (unrebased) was collected while K627.3 billion (unrebased) was deferred (deferred tax is not collectible immediately as the company still remains in a loss situation even after the audit adjustment).
- In 2013, 6,593 audits were undertaken and K 19,435.9 million (rebased) was collected while K 1,340 million (rebased) was deferred
- In 2014 “the number of audits increased by 26.9 percent to 8,366... The MTO office conducted 5,030 audits while 184 audits were conducted under the Mining sector in LTO, yielding K 1,013.3 million out of which K 172.6 million was deferred tax. Further ZRA charged penalties amounting to K 828.9 million in the same period of time for non compliance to tax regulations.” (Zambia Revenue Authority, 2015, p. 16)

The following table offers a more detailed insight into where audits are conducted and what has the outcome has been:

Table 5 Number of audits and tax collected in 2014

Large Tax Office: Mining					
Type of Audit	Number of Audits	Tax collected (K' Million)	Deferred (K' Million)	Total (K' Million)	Penalties (K' Million)
Income tax	28	462.7	107.9	570.6	229.6
PAYE	17	47.0	0.0	47.0	22.7
VAT	102	36.5	0.4	36.9	4.7
Integrated ^b	37	294.6	64.3	358.8	89.8
Sub Total	184	840.7	172.6	1,013.3	346.7
Large Tax Office: Non-Mining					
Type of Audit	Number of Audits	Tax collected (K' Million)	Deferred (K' Million)	Total (K' Million)	Penalties (K' Million)
Income tax	15	3.0	0.2	3.2	1.8
PAYE	26	1.0	0.0	1.0	3.1
VAT	253	50.3	17.1	67.4	5.0
Integrated	62	160.3	123.2	283.5	254.7
Sub Total	356	214.7	140.5	355.1	264.6
Medium Tax Office					
Type of Audit	Number of Audits	Tax collected (K' Million)	Deferred (K' Million)	Total (K' Million)	Penalties (K' Million)
Income tax	11	0.0	0.0	0.0	0.0
PAYE	50	16.4	0.0	16.4	188.5
VAT	4,523	149.8	62.8	212.6	3.1
Integrated	446	33.2	0.8	34.0	19.9
Sub Total	5,030	199.4	63.6	263.1	211.5
Small Tax Office					
Type of Audit	Number of Audits	Tax collected (K' Million)	Deferred (K' Million)	Total (K' Million)	Penalties (K' Million)
Income tax	2,409	3.7	0.0	3.7	3.2
PAYE	55	9.8	0.0	9.8	4.8
VAT	0	0.0	0.0	0.0	0.0
Integrated	332	8.3	0.0	8.3	0.0
Sub Total	2,796	21.8	0.0	21.8	7.9
Grand Total	8,366	1,276.6	376.7	1,653.2	828.9

Source 9 (Zambia Revenue Authority, 2015, p. 34)

The 2014 Annual Report of ZRA explains and comments on that years' activities and outcome as follows:

"The amount assessed in 2014 was much lower than in 2013 largely on account of lower VAT Rule 18 back taxes assessed in 2014 than in 2013. Furthermore, ZRA charged penalties amounting to K828.9 million in the same period for the non-compliance of tax regulations. The bulk of the penalties were attributable to the LTO, accounting for 73.5 percent of the total." (Zambia Revenue Authority, 2015, p. 34)

"Further work was done in the enforcement of withholding tax on rentals. A total of 1,969 taxpayers were visited in the period under review out of which 1,248 were found not to have registered for withholding tax, while 721 taxpayers were registered. The Division commenced registration of the unregistered taxpayers." (Zambia Revenue Authority, 2015, p. 17)

The latter activity took place in the context of the BMS in the Kamwala trading area, which leads to a specific African aspect of tax administration: Block Management.

Last not least the Mobile Enforcement Units needs to be mentioned which is operative, e.g., against smuggling activities (Zambia Revenue Authority, 2015, p. 36)

4.4 Block Management System

The Block Management System (BMS) emerged from the so-called “physical surveys”, where tax authority personnel went out whenever personnel and money was available. This system was neither cost effective nor did it enhance compliance. The BMS is not periodic, but permanent and continuous and is therefore easier to integrate into ZRAs operations.

A block can be defined by streets or quarters, but also by professions (e.g. baker or fisheries) and thus are supervised and serviced by the Tax Service Centre in charge. It covers all tax relevant steps from registering a business, providing education about tax liabilities, assistance as to how to live up to taxpayers obligations etc. By that it covers a wide area with the potential to generate a lot of revenue via Corporate and Personal Income Taxes, VAT and Withholding Taxes. It closely cooperates with local stakeholder (e.g. councils, professional associations...) and by that also supports local councils on the spot, where local levies or fees are concerned (see, e.g. V/#). (ATAF; GIZ, 2014, p. 12ff.).

ZRA adopted this system and sees it to be successfully broadening the tax base. In one example presented the report explains that, “out of 810 taxpayers in the block, 725 were migrated to TaxOnline and 15 of these were identified as having registered for income tax but not for VAT.” In 2014, K 3.2 million could be raised across various tax types from BMS activities. It is helpful in discovering non-compliance and ZRA activities also included education, especially regarding the withholding tax obligations on rentals (Zambia Revenue Authority, 2015, p. 15).

4.5 Mineral Value Chain Monitoring Project

Besides ASYCUDA, UNCTAD provides further support via a project designed to monitor the quantity and quality of minerals produced in Zambia. It is a complex and interlinked system of reports from the mines, sampling of ore with independent laboratory testing, the use of weighbridges for the establishment of quantities, and the use and comparison of trade and declaration information with the assistance of the ASYCUDA system. Here ZRA cooperates with a number of other national (PACRA, CSO, ZABS) and international (Norwegian Government) institutions (Zambia Revenue Authority, 2015, p. 14).

This is an essential instrument to keep track with tax avoidance attempts by the Mining Industry, e.g. via transfer pricing or trade mispricing and misinvoicing.

4.6 Other Compliance Initiatives

Other compliance initiatives undertaken by ZRA were the following:

- Implementing recommendations under the SME Taxation Strategy in collaboration with GIZ, by conducting a sector tax potential assessment and identifying subsectors for taxation prioritisation.
- undertaking cost of compliance studies for all the segments of taxpayers in the Domestic Taxes Division, that is, LTO, MTO and STO, and a baseline study for Customs Services based on taxpayer experiences with Tax Online and ASYCUDA-World Tax Systems.
- undertaking a property taxation study in conjunction with the International Growth Centre (IGC) aimed at exploring strategies for using property taxation to broaden the tax base. (Zambia Revenue Authority, 2015, p. 34)

5 Enforcement deficits

5.1 Categories of tax avoidance and tax evasion

Revenue loss due to that tax avoidance and evasion can happen for many reasons, which is why it is a cross-cutting issue:

First of all, due to ignorance on part of the taxpayer, because he is not fully aware of his obligations and duties. Here, taxpayers literacy has to be increased.

Second, because of unintentional incompleteness of submitted declarations or data entered in forms which can occur, for example, if there was confusions regarding completing complex forms, errors concerning unfamiliar online procedures or if incomplete documentation has been submitted etc. These kinds of error occur easily, not the least because many procedures, especially those online, are subject to frequent reforms and changes. Behind all that, there is no intentional malice or evil. This, too, can be addressed in many ways: A simpler tax law to start with, better by information and education and a good tax payers advice and counselling service and/or well explained electronic collection systems.

Only on the third level exists aggressive tax avoidance, i.e. bending legal regulations beyond that which has been intended by the legislator, or outright evasion or other forms of tax related crimes and IFFs. It is this which needs to be addressed with a bundle of initiatives ranging from national and international legal and administrative cooperation, improved ICT equipment and, most important, an adequate number of qualified tax auditors and fraud investigators.

5.2 Deficits in taxing PAYE and mixed-income

While it is widely known that there is a big tax gap regarding MNEs and the informal sector, there are other areas meriting attention:

Nalishebo & Halwampa, drawing data from the Living Conditions Monitoring Survey 2010 and comparing it with tax revenue from PAYE, conclude that there is a massive under-performance of PAYE for both the self-employed and paid employees with business income (for definitions see V/#). In order to get to this conclusion, they compare household expenditure data with reported PAYE income data and discover that there is more being spent than should be the case when assuming that the declared income data/taxable income is accurate – which leads to the conclusion that there is a considerable share of underreporting (2014, 22ff.).

Nalishebo & Halwampa's analysis comes to the conclusion that a high proportion of income is not reported:

- That in the category of those who have income from both wage/salary and business, up to 20% of income is not reported and
- That in the category of those who are self-employed, up to 56.3% of income is not declared.

While PAYE taxation works with paid and salaried earner, there is a huge gap with those of mixed income and those self-employed:

Tabelle 6 Estimates of reported income, „true“ income, taxable income and tax payable, 2010

Employment status	Average Reported Income	Average “True Income”	Average Taxable Income	Average Tax Payable
Wage Earner	3,511.16	3,511.16	3,370.67	804.16
Self Employed	3,146.10	5,530.84	5,362.42	1,490.63

Source 10 (Nalishebo & Halwampa, 2014, p. 28)

Compared with the reported PAYE of K 3,683.5 million, the total potential tax can be estimated to be K 8,886 million, which leaves Zambia with a tax gap of K 5,203 million, which translates into 6.7% GDP or 40.3% of total tax revenue:

Tabelle 7 Estimation of the PAYE gap, 2010

		Self em- ployed	Paid Em- ployees	Total
A	Total employed (number)	2,409,584	795,144	3,204,728
C	Proportion with income > K800,000/month (%)	10.3%	58.1%	22.1%
D	Total employed with income >K800,000/month (number)	247,409	462,238	709,647
E	Estimated PAYE (monthly) [ZMW million]	368.796	371.714	740.509
F	Estimated PAYE (annualised) [ZMW million]	4,425.6	4,460.6	8,886.1
G	Tax revenue from PAYE (as reported in Fiscal Table) [ZMW million]			3,683.5
H	Tax GAP (Estimated <i>minus</i> Actual) [ZMW million]			5,202.6
J	GDP 2010 [ZMW million]			77,666.6
K	PAYE Gap as % of GDP			6.7%
L	PAYE Gap as % of total tax revenue			40.3%

Source 11 (Nalishebo & Halwampa, 2014, p. 29)

One can assume that the situation has not substantially changed until the present day since measures put into place to capture income from the self-employed, e.g. the presumptive tax, does not perform well (see below, 7.6).

5.3 General taxation of businesses

5.3.1 The taxation of corporate income

A major source of revenue from businesses is Corporate Income Tax (CIT). CIT is largely profit based implying that companies pay CIT on their profits. Enterprises whose turnover exceeds ZMW 800,000 pay the CIT. The biggest problem surrounding CIT is the accurate determination of taxable profits especially where large Multinational Corporations are involved.

To start with: There are different tax rates applicable under Company Income Tax (CIT) across the different sectors. This gives room for companies operating in two different sectors to shift costs and prefer to pay under the sector with a low tax rate. For example, Zambia Sugar despite three –quarters of its income and profits being derived from industrial sugar manufacture, the company enjoyed a low tax regime after winning a court order to reclassify all of its revenues as “*farming income*”. This allowed the Company to reduce its tax rate from the 35% paid by most Zambian business to just 15% applicable in the farming sector then (Action Aid, 2013, p. 2).

The Zambia Institute for Policy Analysis and Research (ZIPAR) observed that, Company Income Tax is perceived to be more vulnerable to tax evasion than other tax types because of the high rate of 35% for most

sectors and different tax rates applicable to different sectors. ZIPAR argues, therefore, that the variations in tax should be either minimal or the same across sectors (Nalishebo & Halwampa, 2014, p. 11f). Similarly: In their 2015 budget submission, the Zambia Tax Platform (ZTP) a consortium of different civil society organisations working on tax issues observed, “there is need to unify corporate tax rates towards 30% to arrest revenue leakage. Companies have taken advantage of the different tax bands by shifting costs from one activity sector to the next.”⁴

Effective implementation of Company Income Tax (CIT) requires the ZRA to have more information about the transactions of companies. Mainly, MNCs tend to have branches in different countries and this makes it easy for MNCs to shift profits across its branches. For instance, British Associated Foods (ABF) Zambian Subsidiary “*Zambia Sugar*” used an array of transactions to reduce taxable profits. As a result, the Zambian government lost tax revenue of around US\$ 17.7million (Action Aid, 2013). Given the complex nature of the transactions of Multinational Corporations (MNCs), it could be difficult for the ZRA without sufficient information to collect adequate taxes. A key informant to this study with specialization in tax policy - Dr. Makano, a public policy specialist - has recommended that, “There is need for the companies to have their cash registers automatically linked to the ZRA online system in order for ZRA to capture transactions of these companies.”

For the previous reasons it seems that the collection of tax revenue under CIT has not been smooth. The Zambia Institute for Policy Analysis and Research (ZIPAR) observes that in 2013 the government expected to raise K2.7 billion from CIT, but only collected under half this amount – K1.1 billion. It is probably for that reason that the Finance Minister argued that the profit based tax in the mining sector is illusory and disadvantageous to the country.⁵ In contrast the Ministry of Finance raised 90% of what it had projected from royalties – K1.8 billion compared with a projected K1.9 billion⁶.

To sum up: Collection of adequate tax revenue were Corporate Income Tax (CIT) is concerned requires the ZRA to have adequate information about financial transactions of companies. In cases involving Multinational

⁴ Zambia Tax Platform, (2014). *Joint CSOs Tax and Non Tax Proposal Submission for 2015 National Budget*. Lusaka: Jesuit Centre for Theological Reflection. p.9

⁵ State of the Economy Address by Honorable Alexander Chikwanda, Minister of Finance and National Planning. Retrieved from <http://www.zambian-economist.com/2015/01/state-of-economy.html>

⁶Retrieved April 20, 2015 from <https://www.daily-mail.co.zm/?p=11660>

Corporations (MNCs) there is need for ZRA tax auditors to have a better access to business data (see below, 7.3.2 and 7.4) and to enhance collaborative efforts with other countries where the MNCs conduct their business (see below 11#).

5.3.2 Transparency Corporate Veil

Whereas the income situation in the area of PAYE is very transparent to ZRA because reporting requirements transmit relevant information is made accessible to ZRA via the employer, the situation is very different with income arising from business activities: Here, ZRA has to rely on information provided by the business and its accountants, tax counsellors. One major obstacle here preventing transparency is the so-called "Corporate Veil". This is

a legal concept that separates the personality of a corporation from the personalities of its shareholders, and protects them from being personally liable for the company's debts and other obligations. This protection is not ironclad or impenetrable. Where a court determines that a company's business was not conducted in accordance with the provisions of corporate legislation (or that it was just a façade for illegal activities) it may hold the shareholders personally liable for the company's obligations under the legal concept of lifting the corporate veil.⁷

The Corporate Veil even applies if tax auditors, perhaps alerted by tax information submitted to ZRA, come to check books in the business: There is no way for them simply entering the accounting and book-keeping department and starting themselves to search for information. Even at that stage they have to ask for information and investigate that which is offered to them. This situation makes it difficult for them to judge, whether the submitted information is comprehensive and honest. Only if, by doing that, some initial well-founded suspicion arises, tax auditors can go to court and obtaining a search warrant. Hence the Corporate Veil is not impenetrable in principle, but tax auditors are in principle in a much weaker position than tax experts of the MNCs.

This is very different from PAYE where there are hardly any options to avoid or evade tax obligations by those working in the formal sector.

5.4 Specific taxation of MNCs

Additional and even higher challenges exist in the case of MNCs, especially in the mining sector due to their international system of subsidiaries and shell companies AND the number of complex tax concessions, see V/3+5.

⁷ <http://www.businessdictionary.com/definition/corporate-veil.html>

Manley (2013, pp. 26ff.) offers details about four of the most common ways encountered by Zambian tax administrators for avoiding and evading the correct payment of taxes:

5.4.1 Transfer Pricing

The most widespread way is transfer pricing by which companies can reduce their overall tax payments by selling goods and services from an operating unit in a low tax jurisdiction to one in a higher tax jurisdiction at a relatively high transfer price.

A famous case here is that of Associated British Foods (ABF) Zambian subsidiary called Zambia Sugar used a range of transactions that have saw over a third of the company's pre-tax profits over US\$ 13.8million a year paid out of Zambia into and via tax haven sister companies in Ireland, Mauritius and the Netherlands. It is estimated that Zambia lost tax revenues of about US\$ 17.7 million (K 95million) since 2007 (Action Aid, 2013, p. 2).

Further, a report by Swedwatch revealed that four Swedish Corporations operating in Zambia, namely; Sandvik, Atlas Copco, Ericson and SKF, lack transparency in the area of corporate financial information. It is reported that despite Sandvik making a yearly turnover of approximately US\$134 million or (K 723,600,000) and Atlas Copco has a turnover of around US\$ 114 million or (K 615,600,000) per year for their operations in Zambia, there is very little information on where these companies pay tax and how much profits they make⁸.

5.4.2 Under-reporting values, over-reporting costs

"Another form of transfer pricing abuse is where mines report to the tax authority that the value of their production is less than is its actual market value. This can be done in a number of ways: mines may under-report the volume of production or the grade of the mineral,²³ or they may fail to report by-products contained in the ore. Often multiple minerals are found within the same ore body. For example, minerals such as gold and silver are sometimes found within copper ore." (Manley, 2013, p. 27)

A similar trick is over-reporting costs, and especially TNCs often report high costs for licence and patent fees or "service fees" provided by some obscure subsidiary residing in tax havens. Here, for instance, an audit done by the government into the second largest copper mine, Mopani Copper Mines showed the company inflated costs and evaded taxes.⁹

⁸ Zambia Daily Mail, 6th July 2013

⁹ Lusakatimes.com (2011, February 28). *Mopani Copper Mine Accountants under Investigation for "Flawed" Tax Submission*. Retrieved April 21, 2015 from

5.4.3 Debt payment abuse

A preferred option to cover high costs in operations is when one subsidiary of a company lends money to another subsidiary of the same company, after that charging high interest rates for this intra-company loan:

“Interest payments on debt are almost always allowed to be deducted from profits when determining taxable income. This can create an incentive for a multinational company to lend funds to a subsidiary at a high rate of interest in order to reduce the subsidiary’s taxable profits. This is a different form of transfer pricing.” (Manley, 2013, p. 28)

5.4.4 Hedging manipulation

Finally, hedging provides numerous opportunities to conceal business gains and losses: Hedging is a practice of MNCs to insure themselves against the ups and downs of volatile prices which is a characteristic of global commodity markets.

“However, hedging can also be used to shift income out of high tax jurisdictions in the same manner as transfer pricing described above. Instead of using derivatives to protect themselves against falls in mineral prices, firms can deliberately trade in order to lose money in a subsidiary facing a high tax rate and to gain in another subsidiary facing a lower tax rate. In effect, firms can transfer income from one subsidiary to another by trading derivatives.” (Manley, 2013, p. 28)

5.4.5 Conclusion

In April 2015, Zambia’s Finance Minister observed that only two mining companies were paying taxes under Company Income Tax (CIT) while all the others lowered their tax burden by using schemes as those outlined above.¹⁰

And yet: despite government commitment to addressing tax lacunas in the mining sector, very little has been achieved to collect more tax revenue from MNCs.

The most important elements for addressing these issues would be transparency, international cooperation via the exchange of data or even conducting Joint Audits, and adequate, well-trained and well-paid staff, e g. in a specialized Transfer Pricing Unit. In this area the investigation and

<http://www.lusakatimes.com/2011/02/28/mopani-copper-accountants-investigation-flawed-tax-submission/>

¹⁰ Lusakatimes.com (2015, February 26). *Only Two Mining Companies Were Paying Tax Under the Previous Tax Regime-Chikwanda*. Retrieved April 21, 2015 from <http://www.lusakatimes.com/2015/02/26/two-mining-companies-paying-tax-previous-tax-regime-chikwanda/>

exchange of data domestically and internationally is key, which is why a reminder of the need to interlink databases seems to be justified.

Increased checks at MNCs are also important due to fairness reasons: Small and medium enterprises do not have tax avoiding and evasion options as internationally active MNEs have. If MNEs succeed in lowering their tax bill due to their size and diversification they would have an unfair advantage towards other businesses in the country.

5.5 Parastatals

An interesting case is enforcement deficit with regards to parastatal firms. It has been observed that some parastatal corporations have not been paying tax. The Chairperson of the Expanded Parliamentary Committee on Estimates observed that, two government media houses, Times of Zambia and Zambia Daily Mail owe the Zambia Revenue Authority tax liabilities and as a result, the two newspapers deny the people of Zambia the much needed taxes.¹¹ This also suggests some political interests at play (see below 10).

5.6 Taxing the informal sector

5.6.1 The situation

Efforts to tax the informal sector with presumptive taxes, has not yet proven successful. The performance is around or even below 1% of the annual revenue collection:

	2008	2009	2010	2011	2012
Total Presumptive Tax	86.2	90.9	83.3	83.2	61.7
Total Income Tax	4,699	5,073	7,326	9,767	11,734
% share of Total Income Tax	1.8%	1.8%	1.1%	0.9%	0.5%

Source 12 (Nhekairo, 2014, p. 25)

The only tax performing more or less satisfactorily is Turnover Tax/VAT:

¹¹ Lusakatimes.com (2015, March 9). *Run only one Viable Newspaper – Hamududu Tips Government*. Retrieved April 28, 2015 from <http://www.lusakatimes.com/2015/03/09/run-one-viable-newspaper-hamudud-tips-government/>

	2005	2006	2007	2008	2009	2010	2011	2012
TOT	9.9	13.1	18.8	23.1	24.1	24.5	30.1	35.0
AIT	0	0	12.3	60.8	64.6	57.2	51.1	24.7
Base Tax	0.07	0.09	0.04	0.03	0.03	0.08	0.01	0
Presumptive on Transport	1.1	1.8	1.8	2.3	2.2	1.5	2.1	2.0
Total Presumptive	10.98	14.96	32.91	86.24	90.88	83.3	83.22	61.71
Total Income Tax	2,462	2,967	3,841	4,699	5,072	7,326	9,767	11,733
% share of Total Income Tax	0.45	0.50	0.86	1.84	1.79	1.14	0.85	0.52

Source 13 (Nhekairo, 2014, p. 25)

5.6.2 Specific problems

One major problem of those taxes is that there are different bodies in charge of collecting those taxes: special agencies/agents as well as local authorities or ZRA itself. And, not surprising, all of them suffer from the lack of an adequate number of adequately trained staff.

Even regarding the best performing tax, there are deficits: Although Value Added Tax (VAT) is largely invoice based offering a sound financial management system, a large section of the Zambian public especially in the informal sector conduct transactions without issuing tax invoices. This negatively affects efficient collection of VAT tax. Secretary to Treasury Mr. Fredson Yamba has argued that Government is concerned with emerging incidences of avoidance of tax obligations by some shop owners of specific concern over the last few months is the retail sector who sale VAT-taxable products.¹²

Although government is aware of such schemes little has been done by government to ensure that traders issue receipts. Government has been urging members of the public to ensure that receipts generated from cash registers are obtained from shop operators and traders.¹³ The ZRA undertakes sporadic inspections checking out if traders are issuing VAT receipts. Although laws are there stipulating penalties for non-compliance, however more could be done to ensure that traders issue receipts. Further, there is need to ensure that government through the Zambia

¹² Lusakatimes.com (2015, February 23). *Treasury Releases K4.32 Billion to Set Up the Development Drive*. Retrieved 18 April, 2015 from <http://www.lusakatimes.com/2015/02/23/treasury-releases-k4-32-billion-step-development-drive/email/>

¹³ Chibuye, J (2015, February 25). *Issue Receipts, Yamba Orders Retailers*. Daily Mail. Retrieved 18 April, 2015 from <https://www.daily-mail.co.zm/?p=21382>

Draft version, not yet officially authorized for quoting.

Revenue Authority undertakes massive sensitizations of the public about the importance of demanding receipted transactions.

An important instrument could be the introduction of cash register and other machines to monitor payments electronically. The introduction of those machines, however, involve costs which might overburden already small businesses and they, too, are open to manipulation and the securement of proper usage would require training and checks.

5.7 Collecting tax from real property

Overlapping with the previous, but not being part of it, are tax collection problems related to the real property sector: Given the importance of real property in the wealth portfolio (see IV/4.4) and the explanation of complexity surrounding the valuation of real estate assets (see V/6.5), now issues surrounding the practical collection of tax shall be addressed.

In Zambia the problem is that raising taxes, levies and fees from property is given to municipalities who lack capacity to start a comprehensive assessment and rating procedure in the first place. This applies to real property within the municipality and even more for areas surrounding municipalities.

In theory and principle, a Withholding Tax applies: The property owner has to withhold 10% out of the gross rental income and remit to ZRA. In practice, enforcement of rental income taxation has been very difficult due to lack of adequate data or information on rented properties especially residential houses. Right now and to a large extent, the successful operation of this tax currently depends on the goodwill of the tenant to remit WHT tax to ZRA. Without sufficient information on rented properties and limited checks it is difficult to administer this tax. With the booming construction sector, it is clear that the numbers of rented properties (residential houses, industries) have risen. However, without adequate information on rented properties and limited checks by the ZRA less rental tax is likely to be collected

Beyond ignorance about the extent of ownership and income, there is a problem of enforcement of regulations at council level. Many reasons could explain this deficit. First, few would dispute that councils are largely understaffed given their unsustainable financial situation. Second, there is observed 'resistance' by some residents to pay various fees and rates. This is due to not only poor performance of local councils but also lack of community participation in council governance matters such as determination of levies, fees and rates.

A final reason for the high amount of non-payment lies in the lack of voluntary compliance of those in theory able to pay rates and levies: Their

unwillingness might be due to their inability to see for what purpose the raised money is used for (i.e. providing services to the residents). Here a solution might be to increase citizen participation in the process, which so far is not secured.

6 Collection of debt

There is an accumulating amount of tax arrears and other obligations not met, the net stock being in 2014 at K15,903 million:

Table 8 Total debt stock 2010-2014

	2010	2011	2012	2013	2014
Total Debt, K' Million	3,464.0	4,880.0	5,667.9	8,582.1	15,903.9
Domestic Taxes Debt	3,455.4	4,849.5	5,611.8	8,496.6	15,692.8
Customs and Excise Debt	8.6	30.5	56.1	85.5	211.1
<i>Domestic Taxes Debt (% of Total)</i>	<i>99.8%</i>	<i>99.4%</i>	<i>99.0%</i>	<i>99.0%</i>	<i>98.7%</i>
<i>Customs and Excise Debt (% of Total)</i>	<i>0.2%</i>	<i>0.6%</i>	<i>1.0%</i>	<i>1.0%</i>	<i>1.3%</i>

Source 14 (Zambia Revenue Authority, 2015, p. 34)

Regarding debt in individual tax categories it can be seen that the deficit is highest in the area of domestic VAT.

Table 9 Trends in domestic debt accumulation 2010-2014

Tax Type	2010	2011	2012	2013	2014
Company Tax	717.0	949.4	3,319.1	5,813.0	3,652.5
Back Duty	17.0	-	-	287.2	
Self Employed (Turnover Tax)	123.0	11.1	-	812.8	75.9
PAYE	490.7	1,786.1	1,605.0	641.4	473.4
Domestic VAT	2,107.0	2,049.6	687.7	901.9	11,357.2
Mineral Royalty	0.7	53.3	0.0	40.3	133.8
Total	3,455.4	4,849.5	5,611.8	8,496.6	15,692.8

Source 15 (Zambia Revenue Authority, 2015, p. 34)

One needs to bear in mind that penalties and fines are possibly not paid to the full extent owed, for which the reasons can be manifold: Obligations can be forgotten, there can be an intentional delay or simply the non-availability of money and/or the problem that a company may go insolvent or bankrupt in case tax arrears are paid. As to the latter, some flexibility in treatment is called for, regarding rate payment, deferment periods or the dispensation of part of the amount. It would not serve the state well if tax obligations are enforced but, at the same time, a business goes into bankruptcy and jobs are being lost.

If, however, some intentional delay is suspected here, as in other fishy cases emerging on the occasion of tax audits, the next department of ZRA is called for:

7 Investigation and prosecution

Having conducted tax audits (see above 4.3) and/or generally suspecting intentional malpractice, the next step can be a more thorough investigation of tax fraud inspectors under the premise to what extent a criminal offence is at hand, requiring punishment by law, involving the payment of fines or even involving a prison sentence, is at hand. "In 2012 alone about 120 cases of malpractice were investigated. Out of these cases, additional taxes of K23.6 million were collected. (Nalishebo & Halwampa, 2014, p. 6). And the 2014 Annual Report of ZAR states:

"The Investigations Department, which is responsible for investigations and prosecutions, continued to partner with other law enforcement agencies such as the Zambia Police, the Anti-Corruption Commission and the Drug Enforcement Commission to improve the quality of investigations on tax-related offences. The Department handled a total of 227 criminal cases, compared to 57 in 2013, representing an increase of 298 percent over the period. Of these cases, 183 were settled administratively, while 44 were prosecuted." (Zambia Revenue Authority, 2015, p. 36)

8 Data leaks

Since 2012 there were repeated data leaks by so-called Whistleblower: Offshore-, Luxembourg, Swiss Leaks or the Panama Paper revealed information about tax evader worldwide. Also Zambia profits from leaked data, which is illustrated by the Swiss Leaks scandal: The Swiss Leaks revelation covered accounts at the HSBC branch in Geneva up to 2007 of some 100,000 clients from 200 nations owning assets worth about USD 100 billion of Dollars, Euros and other currencies. Zambia showed up with 69 clients and USD 48.3 million in assets.¹⁴ However: In order to make good use of such revelations, again adequate staff would be needed to follow those cases up. Even well-staffed tax administration as the German one was stretched to limits when having to deal with leaked cases in addition to the regular workload (see GER/#).

9 Assistance by and cooperation with other states

Tax avoidance and tax evasion by private and corporate wealth holder can best discovered if the relevant authorities have adequate information about the kind of payments and flows of money. Here, the (automatic) exchange of data between tax administrations and jurisdictions of all kind

¹⁴ See <http://www.icij.org/project/swiss-leaks/explore-swiss-leaks-data>

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is key. The fact that “secrecy jurisdictions” do not participate in this or that many data exchange regulations are based on reciprocity puts developing countries into a disadvantaged position. Here, stronger efforts to increase international tax transparency are called for as well as a fairer treatment of developing countries regarding the new Corporate Reporting Standard resp. Automatic Exchange of Information standard by OECD states (see GER/W/II/4.8).

Administrative assistance: There is support for ZRA by the Norwegians the German GIZ; in both cases, experiences are good and should be strengthened. Support by those institutions covers many areas: It is financial, e.g. by Norway to implement the Mineral Value Chain Monitoring system, it sponsors research, e.g. by the GIZ regarding the tax potential of SMEs and it implies training and supervision by external experts, e.g. by the Norwegians regarding audits of Mineral MNEs and by the GIZ regarding tax compliance of SMEs.

Other partners co-operating with ZRA are

- International Growth Centre
- International Finance Corporation and the World Bank Group
- Investment Climate Facility for Africa
- Public Finance Management Reform Programme
- US Treasury – Office of Technical Assistance
- World Customs Organization
- Numerous bi-lateral institutions and co-operations (Zambia Revenue Authority, 2015, p. 18ff.)

Administrative cooperation: The practice of Joint Audits would make even sense between Germany and Zambia to elicit how German controlled companies operate directly or via sub-contractors in Zambia and could greatly improve transparency and a better understanding of their taxable profits. The example of Ferrostaal, which is part of the current study, suggests that such a Joint Audit could shed light into the murky events surrounding the Jathropha plantation which Ferrostaal established via a South African subsidiary (see GER/IX).

Not to forget are internships and scholarship programs for ZRA officers abroad, among others in Germany, the UK and Japan.

10 Outside influence due to political interests

Similar to the outside influence of powerful economic stakeholder into the making of tax laws (see V/4.4), there are allegations of direct political interference in the operations of ZRA “at the top and the bottom”.

Mentioned was already (above, 1) the role of the Republican President at appointing and dismissing ZRA Commissioners without parliamentary participation. But there is more:

For instance, in 2014, the ZRA had threatened to seize property from the Post Newspaper Limited, a Zambian run private newspapers, on account of unpaid tax liabilities of more than eight million Zambian Kwacha since 2011. According to media sources, the Post Newspapers apparently stopped meeting tax obligations soon after the current governing Patriotic Front (PF) formed government in 2011.¹⁵ Perhaps the big question that begs for answers is: why did the Newspaper stop meeting tax obligations since 2011 when the PF formed government? Coincidence of the date for stopping paying taxes and formation of PF led government arouses suspicion especially when no satisfactory explanation is rendered.

There are also reports on politically motivated interferences into tax collection on the local level, impacting on the efforts to collect more tax from the informal sector: Currently, in most markets where informal activities take place, political cadres control the collection of tax revenue especially in urban areas where there is a lot of political activity. For instance, Lusaka City Council Public Relations Manager observed that a known political cadre had been collecting revenue at the market under the pretext that he is doing it on behalf of the Council.¹⁶

If the government is to seriously consider collection of revenue, there is to ensure that ZRA effectively incorporates local councils in taxing the informal sector. Incorporating local councils in the system of taxation for the informal sector would be more effective as informal activities largely take place around the market places, which Councils have the mandate to oversee. Councils could collect revenue on behalf of the Zambia Revenue Authority (ZRA), with incentives to collect more from the informal sector.

There is need for political will in addressing revenue collection from the informal sector. An informant for this study, a Council employee in the Planning Department argued that "individuals with political connections trading in the markets and operating without the necessary permits from the council, have connections with politicians and cannot be touched as such this makes it difficult for the Council to enforce the payment of levies and fees applicable."

This confirms reports by Chileshe and colleagues who concluded that "the informal sector constitutes a substantial vote bank for politicians in

¹⁵ Lusakatimes.com (2014, September 23). *The Post newspaper granted a stay to stop ZRA from seizing it's property*. Retrieved May 5, 2015 from <http://www.lusakatimes.com/2014/09/23/post-newspaper-granted-stay-stop-zra-seizing-property/>

¹⁶ MUVI TV. Retrieved April 21, 2015 from <http://www.muvitv.com/lcc-distances-itself-from-pf-cadres-claims/>

Zambia and Africa in general. Consequently, there have been what Tendler (2002) calls the 'devil's deal' that is, an unspoken arrangement between politicians and the informal sector operators." (2011, p. 83).

11 Discussion

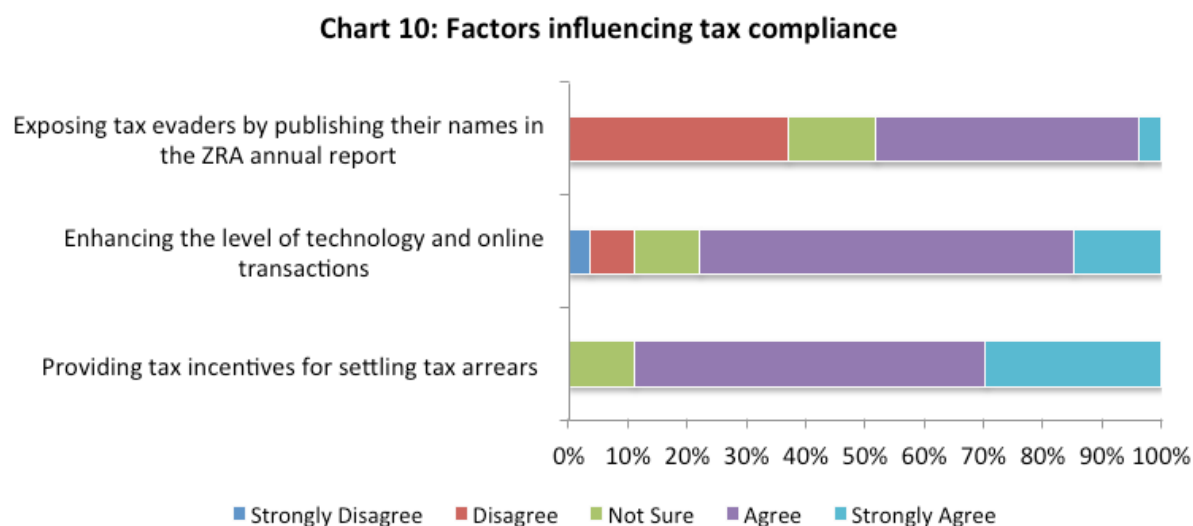
11.1 Voluntariness or Control?

Behind the enforcement deficit lies also a question of "corporate philosophy": What approach is seen to be best to obtain tax honesty and tax compliance? Here and even in 2014, ZRA "operates a self-assessment system for all domestic taxes." This is because of the assumption that more taxpayers comply voluntarily if ZRA "adopts a service-oriented attitude towards taxpayers" (Zambia Revenue Authority, 2015, p. 32). It is also cost effective and releases resources of ZRA to other tasks.

Here, however, empirical evidence indicates, that this optimism might be misplaced and over-optimistic.

Looking at a survey done by the ZIPAR, tax compliance is most positively influenced NOT by voluntariness and a service-oriented tax agency, but by the following three elements:

Graphic 5 Factors influencing tax compliance



Source 16 (Nalishebo & Halwampa, 2014, p. 15)

Here it is interesting that the most important issue, namely an increase in/fear of an increased number of checks and controls, is not mentioned.

In order to increase compliance, ZRA introduced the Large Taxpayers Unit and, within in it, the specialized Mining Tax Unit which in turn is supported by the Norwegian Tax Authority. ZRA is seriously understaffed with people who are so competent that they can keep a level with tax consultants and

advisors of MNCs. In order to employ more of those people, of course, ZRA has to be able to pay those staff member competitive wages because otherwise absolvents of Universities will go where the better pay is.

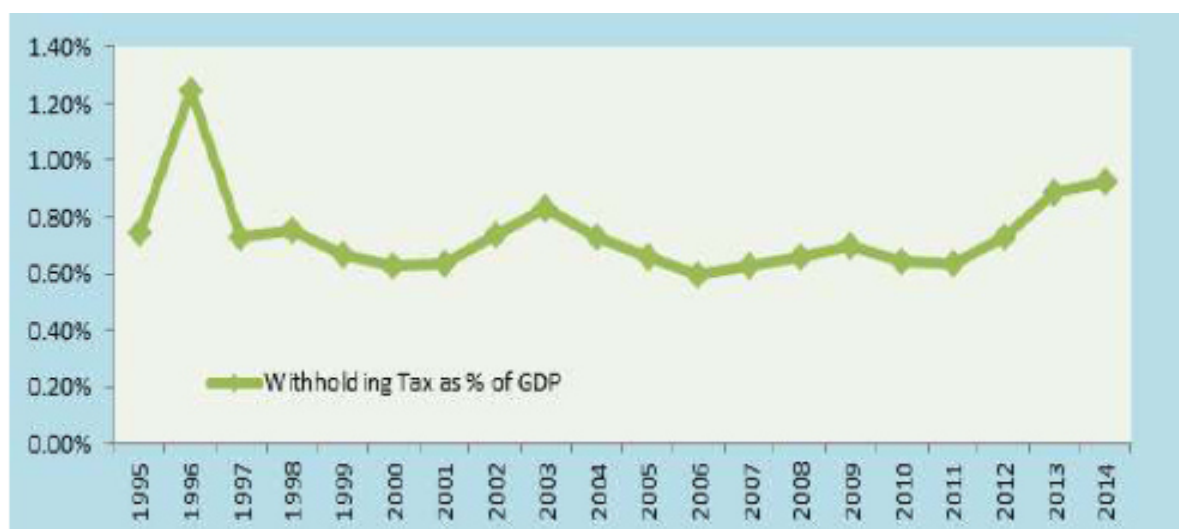
11.2 Costs of tax collection and justice issues

Regarding costs of tax administration, indirect taxation, especially VAT, is very popular since – at least at first sight – it can be collected without great effort and without involving too many personnel: The trader deducts tax and forwards it to ZRA. As this research indicates, however, there are too many ways to avoid payment of VAT and this in turn would require time consuming checks and auditing to enforce tax honesty, especially since electronic equipment such as cash registers are unaffordable for small trader and businesses. An important argument against too high rates of indirect taxation is that it may over-proportionately burdens poor households (see VII/4.2.2)

Equally, heaping ever more taxes upon the PAYE segment is tempting since this way of tax collection is also easy to administer largely because; the tax is calculated as a percentage of *Gross Pay* and is uniformly applied to all workers whether in the public or private sector. This is why the tax burden by those working here is over proportionately high, see VII/#

The introduction of technical innovation, improved registration and transparency measures did enhance the collection of withholding taxes, another tax which is deducted “at source” and forwarded to ZRA. Here, initial investments are needed, e.g. for registration of property and assets (see above 3.3), while follow-up is much cheaper. But here, too, random checks and audits are needed since the distribution of ownership may change over time. This is also seen by ZRA: As ZRAs Annual Report 2014 points out: The percentage of withholding tax to GDP has significantly increased since 2011, primarily due to enforcement activities.

Graphic 6 Withholding Tax as Percentage of GDP, 1995-2014



Source 17 (Zambia Revenue Authority, 2015, p. 29f.)

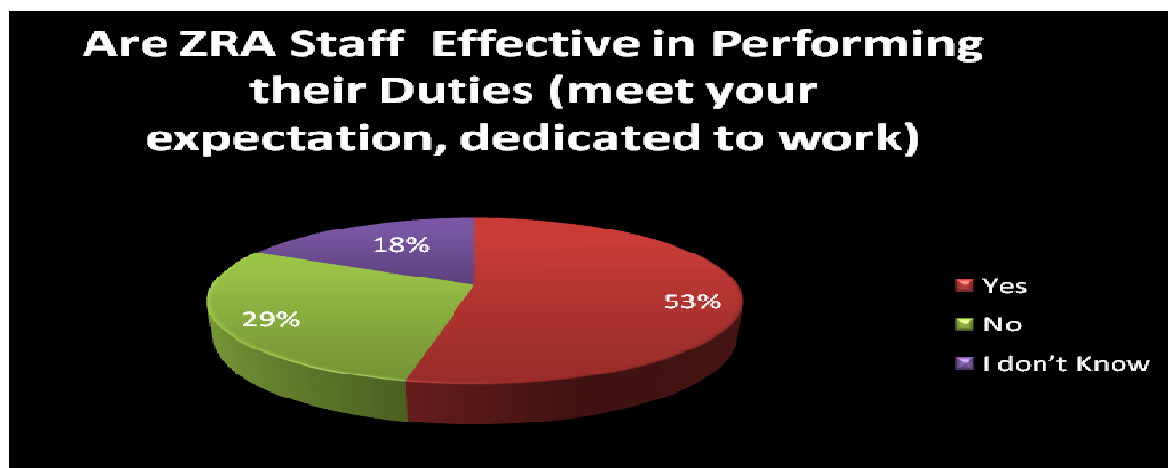
Compared to the previous taxes, the administration of direct taxes is expensive. It is the conviction of this research project, however, that a progressively increasing taxation is the best way to implement the principle of ability to pay and is therefore best to implement tax justice. Costs here are therefore considered to be “justifiable” in the best sense of the word.

11.3 Survey on taxpayers view of ZRA

JCTR undertook a representative survey among the business community particularly 60 Large, Medium and Small taxpayers in Lusaka (see II/6). Here, their views presented about the performance of the ZRA staff, perceptions about the Tax Online and the ZRA Education and Advisory Services.

The first question asked how the respondents evaluate ZRA staffs work performance.

Graphic 7 Taxpayers satisfaction with ZRA staff work performance



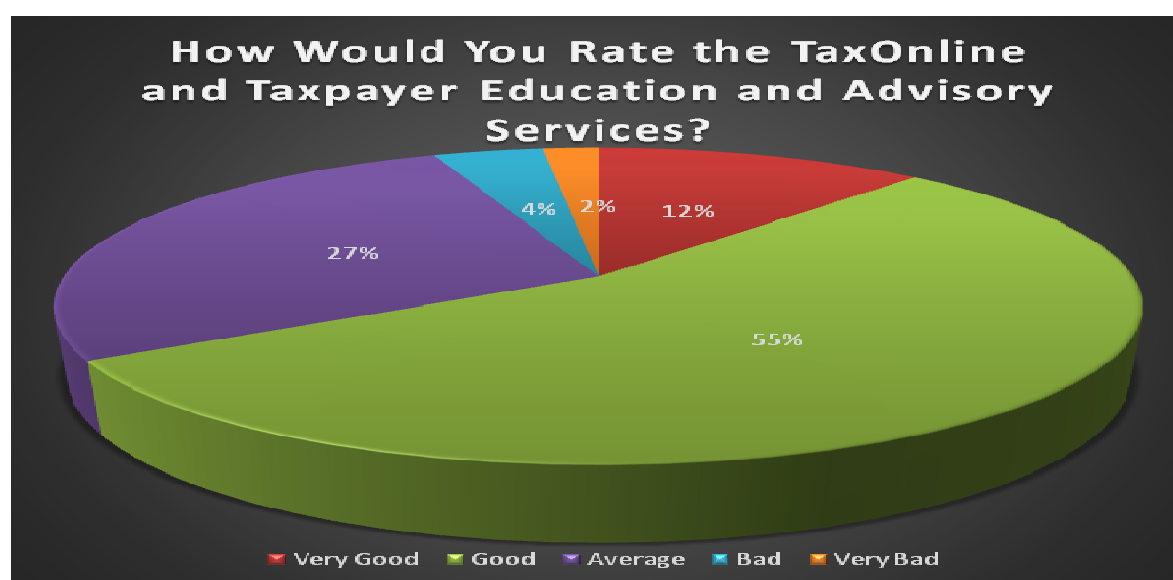
Source 18 (JCTR, 2014)

Draft version, not yet officially authorized for quoting.

Regarding 19% being dissatisfied with ZRA staff, the following reasons were cited: too much corruption, favouritism in handling tax matters, slow response to queries and arrogance towards customers.

The second question asked how taxpayers value the introduction of online instruments and how they value services offered to come to terms with those innovations (see above, 3):

Graphic 8 Taxpayers satisfaction with Tax Online and Advisory Services

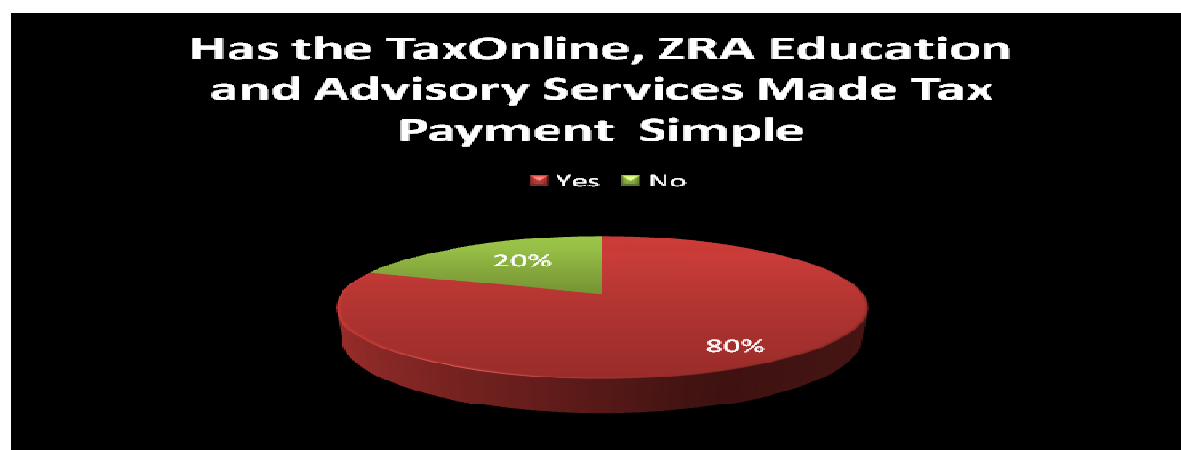


Source 19 (JCTR, 2014)

The 4% who claimed that the two facilities are bad, the following were the main arguments cited: ZRA education activities limited to TV and Radio, education activities only done in towns and call centre does not give advice properly.

Given frequent uncertainty about applicable taxes, tax rates and procedures surrounding payment, the last question asked whether Tax Online and Taxpayers Education and Advisory Services have made tax payments simple

Graphic 9 Overall assessments: Did recent innovations make taxpaying more simple?



Source 20 (JCTR, 2014)

Of the 20% who disagree, the following are their main arguments: There is little sensitization on the TaxOnline and it is very slow.

12 Mandatory Social Security Contributions

Since mandatory social security contributions are collected alongside PAYE tax, there is little opportunity for avoidance and evasion if a person works in the formal sector and is properly registered.

13 Conclusion

Enforcement is crucial for tax revenue collection, even in times of good economic performance: Increasing tax revenue in times of good performance may still hide a number of unfairness and injustice, e.g. that those contribute revenue who cannot escape payment obligations (PAYE and poor households paying VAT) and that those, who can afford tax avoidance (MNEs more than MSMEs) are still lowering their fair share.

In order to safeguard tax justice, many areas need to be addressed simultaneously:

Legal: More transparency provisions need to be enacted for tax collecting agencies so that they can inspect and collect taxation relevant data – some efforts such as entering information about land and share ownership as well as other wealth assets into data bases are a big effort at the beginning and, once data is in place requires less effort to maintain it on an up to date basis. The justified private and corporate data privacy interests are adequately protected by the high level of tax secrecy which prevents leakages of important data from ZRA.

This is a task to ZRA and the national legislator and, as far as international tax law is concerned, the task of the cooperation between states and CSO, churches and other advocacy groups in order to achieve a

legal framework more beneficial for developing countries than the present one.

ICT: An ever better use needs to be made from ICT techniques since data bases/data exchange provide more insights in value of assets, taxes due, flows of money and tricks applied. This is also important for enabling tax authorities to properly checking on the payment of withholding taxes both from businesses and rentals, especially since the authorities in charge are so diverse and comprise local municipalities, licensed tax collecting contractors and ZRA.

Here, money is needed to equip ZRA with modern ITC hard- and software and to provide adequate training so that tax officials can keep abreast development in international tax practices and malpractices because only then they are able to fight the outflow of IFFs which is, for Zambia, a huge problem. For that, development cooperation could both in assisting in investment into ITC technique and in offering training to tax officials.

Staff: Key is, also in the view of other experts, e.g. Nhekairo, more qualified personnel, especially in the field of the taxing of private, corporate and criminal wealth, most specifically in the field of mining taxation, in order to cope with the wide range of tax regulations, e.g. different rates, various concessions and exemptions and resulting loopholes, e.g. in the field of transfer pricing (Chileshe, Manley, & al., 2011, p. 57ff.). In order to get qualified and dedicated people, however, ZRA has to be able to pay competitive salaries – otherwise qualified people will rather work for the mines than for government.

Here, therefore, it is most important to offer good working conditions and competitive payment to attract bright young people from university. If there are no competitive wages, those graduates will go to the mines which are able to offer those wages. Additionally, attractive payment conditions are seen to be a main instrument to reduce corruption (Nalishebo & Halwampa, 2014, p. 11) and (Manley, 2013, p. 10f.).

This will require some initial investment. But, all in all, any investment into Domestic Revenue Collection is money well spent for two reasons:

First, in Zambia, too, tax officials especially in the auditing and investigative departments earn much more than they cost (see above, 4.3).

Second: Due to checks increasing in quantity and quality, an indirect deterrence effect can be obtained and “voluntary” tax compliance will increase since the risk of also getting a visit from the tax man is rising.

14 Annex 1: ZRA Governing Board, Committees, Departments and divisions

THE ZAMBIA REVENUE AUTHORITY GOVERNING BOARD

The membership of this Board as provided for in the Act includes; the Secretary to the Treasury, the Permanent Secretary – Ministry of Justice; the Governor of the Bank of Zambia; representatives from the Law Association of Zambia; the Zambia Association of Chambers of Commerce and Industry, the Bankers Association of Zambia, the Zambia Institute of Chartered Accountants; and two other members appointed by the Minister of Finance. The Chairman of the Board is elected from amongst its members. The Chief Executive Officer of the ZRA is the Commissioner General who is appointed by the President of the Republic of Zambia.¹⁷

The role of the Zambia Revenue Authority Governing Board is derived from the Zambia Revenue Authority Act, Chapter 321 of the Laws of Zambia, section 11 (1), (2) and (3). According to the Act:

The functions of the Governing Board include;

- (a) to assess, charge, levy and collect all revenue due to the Government under such laws as the Minister may, by statutory instrument, specify;
- (b) to ensure that all revenue collected is, as soon as reasonably practicable, credited to the Treasury;

The Minister may give to the Governing Board such general directives with respect to the carrying out of its functions under this Act as he considers necessary or expedient and the Board shall give effect to such directives, but only the Authority shall have power to give effect to the laws specified under paragraph (a) of subsection (1). The Governing Board may delegate to the Commissioner or to any member or committee, the power and authority to carry out, on behalf of the Authority, such functions of the Board as the Board may determine.

The Commissioner General of the Zambia Revenue Authority (ZRA) is responsible for the day to day running of the Authority's business. In executing his mandate, the Commissioner General is assisted by the Senior Management Members.

Divisional and Departmental

¹⁷Zambia Revenue Authority (ZRA). Retrieved April 25, 2015 from <https://www.zra.org.zm/commonHomePage.htm?viewName=History>

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The ZRA has two divisions that are mandated to collect tax revenue which are Customs Services Division and Domestic Taxes Division, who were presented already above. Other departments of ZRA supporting the operative work are the following:

Research and Planning Department (RPD)

The Key strategic role of the Research and Planning Department (RPD) is to provide research, policy development, taxpayer education, programme planning and corporate communications services. The department comprises four Units: Research and Policy, Corporate Planning, Business Continuity and Corporate Communication. The Research and Planning Department is mandated to provide well-researched and analysed information, economic and statistical, on tax matters for use in policy decisions made by management.

It also coordinates all activities relating to the development and implementation of the Authority's Corporate Strategic Plan. Further, the department coordinates the implementation of the organisation-wide risk management process, monitoring of Taxpayers Charter. RPD is the custodian of the Corporate Business Continuity Plan, policy and strategy which is meant to ensure business operational continuity in the event of failure of the key processes and systems.

The department is also responsible for developing and maintaining a proactive public relations and communications strategy that promotes a positive image for the Authority as well as secures buy-in from all stakeholders towards the Authority's programmes through the implementation of the Communication Policy and the Corporate Social Responsibility Policy.

Finance Department

The Department is responsible for delivering outstanding business financial solutions consistently through seamlessly integrated financial and business systems. The Department has two units namely Treasury and Accounting. The role of Treasury Unit is to facilitate the collection of Government revenue while the Accounting Unit is responsible for the management of the funds received from the central Government for the operations of the Authority.

Internal Audit Department

The Internal Audit Department reviews and confirms the reliability of internal controls, risk management and governance processes within the Authority. The Department also assesses, on a regular basis, the level of implementation of various recommendations agreed in prior audit reports. The Internal Audit Department also coordinates all queries from the Office of the Auditor General. In addition, the Department is responsible for

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continuously evaluating the processes of controlling operations throughout the Authority.

Project Management Department

The Project Management Department was formulated as part of the Modernisation strategy of the Authority. It was created to support project needs within the Authority and to allow for efficiency and effectiveness in project implementation. The Department offers centralized and coordinated management of projects within the Authority as well as project support on a formal basis to all projects that are on- going.

This support includes advice on project management tools, guidance and administrative services such as efficient project documentation, collection of actual on projects.

Information Technology Department

The Department is responsible for the provision of ICT systems that support the operations of the Authority. This includes developing the implementing ICT strategies that assist the Authority to achieve its mandate of optimising revenue collection.

It also strengthens existing information systems to enhance efficiency, co-ordination, integration of business systems. Furthermore, the Department is responsible for modernising existing communication systems and facilitate linkages to the outside world.

Investigations Department

The Investigations Department helps the Authority in the management of risks on categories of taxpayers and taxable activities that have a high revenue leakage risk platform such as; new trends of tax evasion, commercial fraud, smuggling and transit fraud among others, thereby helping the Authority in optimising revenue collection. The Department gathers intelligence which is used in curbing revenue leakage.

Internal Affairs Department

The internal Affairs Unit is mandated to investigate cases of employee misconduct, which compromise corporate integrity in ZRA such as corruption, fraud and other malpractices. In dealing with cases of improper employee conduct, the Unit has adopted the Prevention, Education and Enforcement (PEE) strategy of combating corruption which includes investigation and prosecution of offenders. In performing these functions, the Unit collaborates with other law enforcement agencies such as Zambia Police Service, the Anti-Corruption Commission (ACC) and the Drug Enforcement Commission (DEC).

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