Final report

International Growth Centre

Property taxation, capital gains tax, and mining rights tax in Zambia

Current performance and options for reform

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November 2016

When citing this paper, please use the title and the following reference number:
1-41201-ZMB-1

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FUNDED BY
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CIT	Corporate Income Tax
CG	Central Government
CGT	Capital gains Tax
GDP	Gross Domestic Product
GRZ	Government Republic of Zambia
EAC	East African Community
IGT	Intergovernmental Transfer
IMF	International Monetary Fund
LG	Local Government
OECD	Organisation for Economic Cooperation and Development
PTT	Property Tax Transfer
PIT	Personal Income Tax
RTSA	Road Transport and Safety Agency
SADC	Southern African Development Community
SSA	Sub-Saharan Africa
VAT	Value Added Taxation
ZESCO	Zambia Electricity Supply Corporation
ZMW	Zambian Kwacha

Executive summary

The Government of the Republic of Zambia (GRZ) has been undertaking a series of tax reform measures since 2010 with the aim to increase revenue yields through base broadening, rate changes and increased voluntary compliance by taxpayers. Amongst such measures relevant to this project include the increase in the property transfer rates from 3% to 5% and subsequently 10%; reform in the fiscal regime for mining companies, which entails reducing the capital allowances for mining firms from 100% expensing to 25% straight-line, and introducing a 10% property transfer tax on sales or transfers of mining rights.

Critical to the base broadening drive in the Zambia revenue administration is the effective taxation of capital. The non-taxation of capital gains in Zambia continues to raise debate amongst policy makers and tax policy experts like the International Monetary Fund who have consistently suggested the inclusion of the same in the revenue generation stream. However, designing this tax in terms of base determination, valuation, rate setting and administration, remain a challenge in Zambia.

Another critical issue of concern is the under-utilisation of property tax instrument on immovable property to generate revenue, particularly for the local government operation in Zambia. Despite the *a priori* potential, property taxes seem to be far from being a mainstay of the revenue system in Zambia. This project therefore has attempted to design an appropriate reform strategy (with a strong focus on the policy and administrative dimensions) that will aid the Zambia Revenue Authority (ZRA) in bringing the reform needed to increase revenues from capital gains taxes, property transfer taxes and the taxation of immovable property such that revenues contribute significantly to total revenues of both central and local governments and that of GDP. The study has also provided a better understanding of what policies, regulatory and legal frameworks, tools and instruments have been applied to the implementation of certain tax system in Zambia.

Data collection for the above analysis was facilitated by the Zambia Revenue Authority. For property taxation in particular, measures of improved tax administration focused on the components of the tax structure and its implementation, particularly on assessment and collection.

Key issues identified for reform include:

1. Narrow tax base due in part to the multiplicity of CIT rates but particularly due to the non-taxation of capital gains for both legal and natural persons.
2. High incentive to under-declare the value of property transaction owing to the relatively high property transfer rate and weak monitoring of property transfer transactions in Zambia.
3. Weak coordination of fiscal decentralisation process; and no centralised unit to provide information on annual value of property, collection ratios, and annual property tax expenditure.
4. Weak capacity of Local Councils to administer property tax in Zambia
5. Outdated cadastre and poor recording keeping in councils.
6. Under-utilisation of property tax instrument on immovable property to generate revenue.
7. Expenditure responsibilities devolved but revenue assignments not fully devolved.
8. Unstable fiscal regime for the mining sector.

In line with the aforementioned policy issues the following are recommended:

1. Consolidate all corporate income tax rates towards a more acceptable standard rate of 30 percent.

However, given government's policy to expand certain sectors considered critical to the economy, a phrased approach should be adopted in the proposed consolidation exercise. In particular, priority sectors with CIT rates lower than the proposed 30 percent might be delayed to a medium and long terms. Consolidation of CIT rates will provide a platform for the implementation of capital gains tax.

2. Given the present local property tax are 0.13 percent of GDP and that from the property transfer tax is 0.69 percent, in the short -and medium -term capital gains tax would seem to offer the best possibility of narrowing the domestic revenue gap in Zambia. With that, fully implement CGT starting with the design and drafting of legislation and policy guidelines that address issues of rate, base, coverage determination and administrative procedures generally. Specifically:

- Include CGT in the normal income tax regime but for natural person, include only 50% of realised gains into the normal income tax; this gives an effective CGT rate of 17.5% which is above VAT rate but lower than the income tax rate.
- Once CIT rate is unified at 30% subject companies to tax on net capital gains at 30% rate with no inclusion rate
- Broaden the CGT base to include disposal of immovable and marketable securities not on the revenue account.
- Use cost base method to determine the CGT.
- Exempt principal owner occupied homes from CGT but reform property rate administration to ensure that owner-occupied homes are captured on the property cadastral and taxed at a rate under the property tax regime that would raise roughly the revenue forgone by the home exemption in the CGT regime.
- Exempt assets acquired before agreed valuation date from CGT. Use base apportioning method.

3. Whilst the continuous imposition of property transfer tax can be justified on the basis that there is no capital gains tax, the continuous increase in the flat rate of PTT is not advisable as it provides incentive for under declaration of sales value, and so it weakens the database that is necessary for objective assessment of annual property. Consider reducing PTT to 5%; and once CGT is fully implemented and efficient, consider reducing it further to 3%. Note, once CGT is implemented using the base cost approach PTT becomes more relevant for cash flow purposes since it forms part of base cost that will be deducted in the computation of CGT. In additional, PTT can be relevant to generate revenue from properties that are exempt from CGT such as primary residence upon transfer or disposal of such property. CGT do not only have positive revenue impact but have a self-checking feature that could minimize under declaration, and so could help strengthen valuation for the annual property tax.

4. Institute robust data matching process with third parties involved in property transaction. For instance, ZRA could match value of property declared for tax purposes with declared purchase price when the property is mortgaged to the bank in order to guarantee payment. Furthermore, severe fines and penalties should be instituted for defaulters. Moreover, legal requirement linking value declared for tax purposes to compensation in the event of expropriation could be another option to minimise underreporting of actual sales value of property.

5. GVD in consultation with ZRA can institute a system of accreditation for valuers. Annual license can be issued to qualified valuers, and valuers can be deregistered if there performance is unsatisfactory.

6. Institute a fiscal decentralisation commission that will be responsible for facilitating reform measures in the local councils, but particularly the commission should be charged with the responsibility of knowledge generation which is critical for property tax administration. This will include carry out studies on annual sales ratio, collection rate, annual tax expenditure for the property tax to track the cost of exemptions, do an annual breakdown of revenue collection by councils and by sub-categories, and prepare an annual delinquent list classified by status (collectible or bad debts). The said Commission should be capacitated to monitor activities devolved to councils and be in position to rank these councils into performing and non-performing councils based on agreed indicators. Finally, the Commission should provide information that will guide expenditure sharing (Government Transfers) to councils.

7. Given that property tax is a local revenue source, the higher level government may not have enough of a vested interest to value and do aggressive collection, and the case becomes very strong for local government responsibility. Thus, building the capacity of Local councils to increase and sustain valuation, collection and enforcement of property tax is very critical. This involves staffing and training of personnel. The training should not only be limited to the classroom but there is need for on-the-job, on-site capacity building that supports and institutionalises new ways of doing business.

8. Adequate and updated information on the tax base is critical for the administration of any tax handle, thus tracking all new improvements to properties, as well as changes in ownership and sub-division of properties is very necessary for property tax administration. However, information generation could be expensive. To overcome the tendency of such efforts to be both very costly and difficult to sustain over time, there is need for a local recruitment of valuation officers in all city councils who would be trained to perform the identification and assessment of properties, including the assignment of street names, house numbers and land parcels. Portable Global Positioning System (GPS) devices could be used to identify the location of different properties, with the potential to then transform these GPS coordinates into comprehensive local property maps as part of a broader Geographic Information System (GIS) and tax mapping. Meanwhile, all of the relevant information can be recorded using relatively straightforward database software that could tabulate the physical description of the property, assessment, tax liabilities, track tax compliance, and tenure and ownership information. Furthermore, there is need to link all systems for identifying land values and tax payment. The introduction of a unique parcel identification number could be a starting point

9. Whilst a holistic approach is needed for property tax reform (which includes identification of properties, valuation, record keeping) a collection-led strategy is required given the capacity constraint in valuation particularly in the short and medium-term. Thus, embarking on collection led reform measures in the property tax administration is key. Specifically:
   - Embarking on effective outreach, transparency and service delivery to build the sustainable political foundation necessary to confront resistance by large property owners in particular.
   - Strong political will at the local government level is required to enforce penalties in the tax law. Publishing the names of delinquent taxpayers in newspapers and local radios could be a starting point for effective enforcement.
   - Local Councils, particularly City councils and to some extent municipal councils to sign MOU with other valued service providers such as the Zambia Electricity Supply Corporation (ZESCO)

to demand receipts for payment of property tax before allowing payment of electricity bills. Of course this may require a cost on the service providers, such as adjusted information in their software or system, which could be negotiated by the City Councils.

- Increase the LG revenue base by transferring the taxation of movable property such as vehicle licenses to Local councils. Or a revenue sharing arrangement between RTSA and Local councils instituted with respect to proceeds from vehicle license.

10. All expenditure assignment should have a corresponding revenue assignment. Thus there is need to build the revenue generating capacity of Local Government (LG) as well as increased transfers from Central Government (CG) to ensure efficient service delivery which is critical for voluntary tax compliance. Strong political will is required to grant autonomy to Local government function.

1.0 Background and context

Having enjoyed relative stability in its fiscal position since 2010 with an overall budget deficit at or below 3.2 percent of GDP, the government of Zambia entered into a challenging fiscal position in 2013 with the overall fiscal balance estimated at 8.5 percent of GDP, higher than budgeted estimate of 4.5 for the same period (Budget Address 2014). The increased budget deficit was partly due to spending overruns in the civil service wage settlement, maize marketing programme and further due to weak domestic revenue mobilisation resulting from tax base erosion. The country's debt –to- GDP also increased from 27.2 percent to 31.3 percent in the same period. At the same time growth of tax revenues were not in line with real growth and price increases that feed into growth in tax bases. In 2013, whilst real GDP growth was at 7.3 percent and inflation at 7.0 percent, tax revenue-to-GDP decreased by 0.7 percentage point.

Recognising these challenges the Government of the Republic of Zambia (GRZ) decided to prioritise domestic revenue mobilisation, targeting an increase in domestic revenue to at least 20.1 percent of GDP by 2016 (Budget Address 2016) from 18.1 percent[1] in 2015. The domestic revenue mobilisation target of government is expected to be achieved through modernising tax administration to increase tax compliance; and by undertaking or deepening a series of tax reform measures aimed at broadening the tax base and increasing revenue yields.

Amongst such measures relevant to this project include the increase in the property transfer rates from 3 percent to 5 percent in 2011 and further to 10 percent[2] in 2014(Budget Highlights, 2014); reform in the fiscal regime for mining companies, which entails reducing the capital allowances for mining from 100 percent expensing to 25 percent straight-line and introducing a 10% property transfer tax on sales or transfers of mining rights in 2013(Budget Speech 2013).

Critical to the base broadening drive in the country's revenue administration is the effective taxation of capital. The non-taxation of capital gains in Zambia continues to raise debate amongst policy makers and tax policy experts like the International Monetary Fund who had consistently suggested the inclusion of same in the revenue generation stream. However designing this tax in terms of base determination, valuation, rate setting, and administration remains a challenge in Zambia.

Another critical issue of concern is the under-utilisation of property tax instrument on immovable property to generate revenue, particularly for the local government operation in Zambia. Despite the *a priori* potential, property taxes seem to be far from being a mainstay of the revenue system in Zambia. As at 2000, this tax accounted for about 0.13% of GDP, lower than the average of 0.6% of GDP for developing countries and far lower than OECD countries' average of 2.12% of GDP for the same period (IMF, 2010). Given the present

[1]The current revenue- to- GDP ratio of 18.1% is at par with the average of low income countries, However, fiscal authorities have set themselves an ambitious revenue-GDP target of 20.1% in 2016 to be in line with other SADC countries, major trading partners of Zambia.

[2]The 2016 Budget speech however proposes to reverse the increase from 10% to 5% in 2016

local property tax are 0.13 percent of GDP and that from the property transfer tax is 0.69 percent, in the short -and medium -term capital gains tax would seem to offer the best possibility of narrowing the domestic revenue gap in Zambia.

This project therefore designs an appropriate reform strategy (with a strong focus on the policy and administrative dimensions) that will aid the Zambia Revenue Authority (ZRA) in bringing the reform needed to increase revenues from capital gains taxes, property transfer taxes and the taxation of immovable property such that revenues contribute significantly to total revenues of both central and local governments and that of GDP. The study also creates a better understanding of what policies, regulatory and legal frameworks, tools and instruments have been applied to the implementation of certain tax system in Zambia.

2.0 Aims of the project

The two main aims of the study as specified in the Terms of Reference are:

1. To undertake an analysis of the existing property taxation that includes (property transfer tax, capital gain tax and mining right transfer tax system) in Zambia identifying the major constraints and opportunities for improvement.
2. Based on the analysis, design an appropriate reform strategy with focus on the policy and administrative dimensions and develop an actionable implementation strategy that the Zambia Revenue Authority will use to bring out the reform needed.

2.1 Areas of enquiry

This project specifically addresses the following policy and administrative issues:

- ✓ Type of wealth or capital to be taxed by both levels of government in Zambia- Current Legal and institutional arrangements and recommended capital taxation
- ✓ Base determination of such capital or wealth- current status and recommended good practices within the country's socio-economic and political environment.
- ✓ Method of valuation/ Assessment- current status and recommended good practices
- ✓ Rate - current status and recommended rates with revenue implications
- ✓ Collection- Current status i.e. revenue performance indicators (respective wealth tax revenue as a share of GDP and total central or subnational government revenue as well as assessment of method and institutional arrangements for collection and potential to improve on current revenue share.
- ✓ Enforcement methods- current status-legal and institutional arrangements and recommendations
- ✓ Cost of administration of respective wealth tax

3.0 Method and data source

The study uses both quantitative and qualitative data. It primarily utilises secondary data sources, surveying existing reports on tax administration in Zambia. In particular, technical reports by the International Monetary Fund, African Development Bank, United National- HABITAT were surveyed. Other information sources included budget speeches, annual reports of the Zambia Revenue Authority, and fiscal policies and legislations sourced from mainly Ministry of Finance.

Research Assistants were recruited to conduct in-depth interviews with key stakeholders such as: Local Council Officers, Senior Officers from the Government Valuation Department, Zambia Revenue Authority and the Ministry of Finance. These interviews enabled us to draw lessons regarding key factors influencing success/failure of property and transfer taxes administration, and the challenges on the non-implementation of Capital Gains Tax. This source of information also informed the identification of the major constraints and opportunities for improvement in property and transfer taxes administration as well as the possible implementation of Capital Gains Tax. The Research Assistants also collected technical data using a structured data request template provided by the Lead Researcher.[3] The information collected included trends data on the structure of taxes, revenue collected by tax handles, and some macroeconomic indicators. However, there was huge limitation in data collection process as most of the critical information required for proper fiscal planning was not readily available. Critical among these include: (1) information about characteristics of the property e.g. sales value, location and physical attributes of the property, ii) Arrears and total property tax liabilities, iii) annual breakdown of revenue collection by councils and by sub-categories, iv) ownership of asset by income categories, etc. This lack of critical data limited the study in the computation of revenue potentials for Property Tax and Capital Gains Tax; and the computation of key property tax administration indicators such as sales ratio and collection rate.

It was also the intention of this study to analyse how local variations might have influenced different levels of reform measures in the major local councils in Zambia, however the paucity of data on detailed reform measures undertaken in the Local Councils has limited the study to national analysis and in some cases the use of relatively old statistics.

2.0 Tax Environment

This section presents the current tax position and laws which are important to understanding the setting for tax reform.

[3]Owing to travel ban levied on the country of residence of the lead researcher, he was not involved in the field exercise to collect data.

2.1 Trends in tax revenue collection in Zambia (2006-2014)

Domestic revenue, defined as tax and non-tax public revenues excluding grants increased by almost two percentage points of GDP between 2006 and 2013, reaching a peak of 20.9 percent of GDP in 2011 before slightly declining to 19.5 percent and 18.8 percent in 2012 and 2013 respectively (Table 1). However, a significant share of the increase in domestic revenue in Zambia came from enhanced revenue mobilisation in the natural resource taxes[4] from a low 0.2 percent of GDP in 2006 to a peak of 5.5 percent of GDP in 2011 before slightly declining to 3.8 percent and 3.3 percent in 2012 and 2013 respectively.[5] Tax revenue continues to account for a larger share of domestic revenue accounting for about 92 percent of total domestic revenue between 2006 and 2013; in terms of GDP, tax revenue has grown from a low 15.8 percent in 2006 to a high 19.3 percent in 2011 thereafter declined to 17.2 percent and 17.0 percent in 2012 and 2013 respectively. Figure 1 indicates that in 2013 Zambia's tax -to -GDP ratio stood at 17.0 percent which was below the un-weighted tax-to-GDP average of 22.3 percent for the Southern African Development Community (SADC); far below the un-weighted average of 29.2 percent for the Organisation for Economic Cooperation and Development (OECD) countries; and slightly below the un-weighted average of 17.2 percent for sub-Saharan African Countries. Of importance is that fact that Zambia's tax revenue-to-GDP of 17 percent is lower than the United Nations benchmark of 20 percent required by Least developed Countries to raise through taxes to meet the Millennium Development Goals (MDGs). Clearly when compared to the un-weighted averages of 22.3 per cent in SADC region as depicted in Figure 1, it is evident that the Zambia revenue GDP is low. However, Zambia tax revenue –to-GDP of 17 percent is at par with that of Sub-Saharan average of 17.2 percent.

Figure 2 also depicts that since 2009 tax revenue has shown unbalanced mix with revenue from income taxes showing steady increase and accounting for over 50 percent of the total tax revenue whilst the share of customs and export duty declined from 11.5 percent in 2009 to 8.5 percent in 2013. Such recent trends of decreases in revenue from customs and export taxes could be indicative of trade liberalization effects. Whilst opening up trade is expected to bolster long-term economic growth, countries, such as Zambia where authorities are under pressure to appropriate growing resources to poverty alleviation and infrastructure development, participating in trade negotiations should have alternative sources of revenue to protect domestic revenue.

The share of revenue from VAT shows steady decline from 26.3 percent to 22.1 percent between 2009 and 2011 before increasing to 25.9 percent and 34.6 percent in 2012 and 2013 respectively largely driven by

[4]This included income from royalties, and corporate income tax on mining companies.

[5]Tax changes in this sector follows the cycle of copper prices throughout this period, but a number of other factors are also important in explaining the performance in the sector and these include: the roll-out of audits and improved monitoring of physical flows and contained metal. Key risks to the outlook in the sector are the persistent low copper prices, and policy uncertainties that could undermine investment in the sector.

import VAT. Within the income tax category, individuals continued to shoulder an increasingly dominant share of the income tax burden in comparison with companies. In 2009, whilst individual taxes contributed 36.7 percent to total revenue, company taxes' contribution was only 14.6%. This trend continued between 2010 and 2013 even though the gap between the average tax burden on individuals and companies seems to have narrowed. Within the corporate tax category, revenue from mining corporations increased steadily and significantly from 4.3 percent of total tax revenue in 2009 to 23.5 percent in 2011 before declining to 14.2 and 11.1 percent in 2012 and 2013 respectively. Of significance is the fact that since reform in the fiscal regime for mining companies in 2011, mining corporate revenue has accounted for an average of 65 percent of total corporate revenue between 2011 and 2013, whilst the non-mining corporate to total corporate revenue is only 35 percent in the same period.

Figure 1: Zambia Tax Revenue/GDP ratio compared to other economies

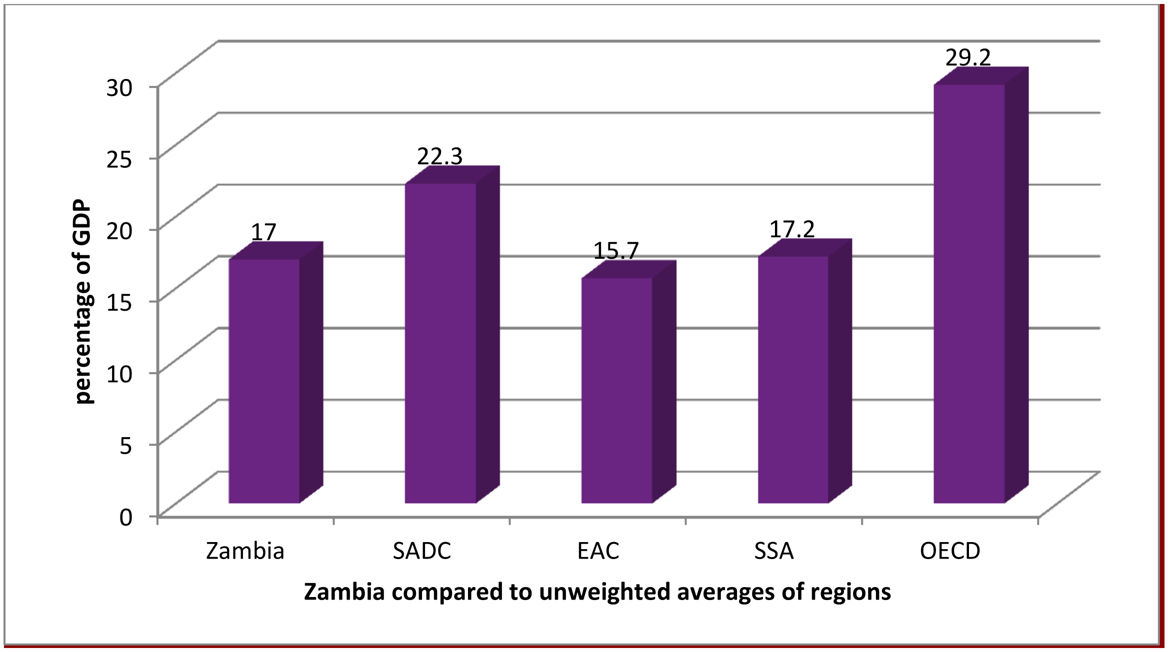

Figure 2: Trends in Tax Mix

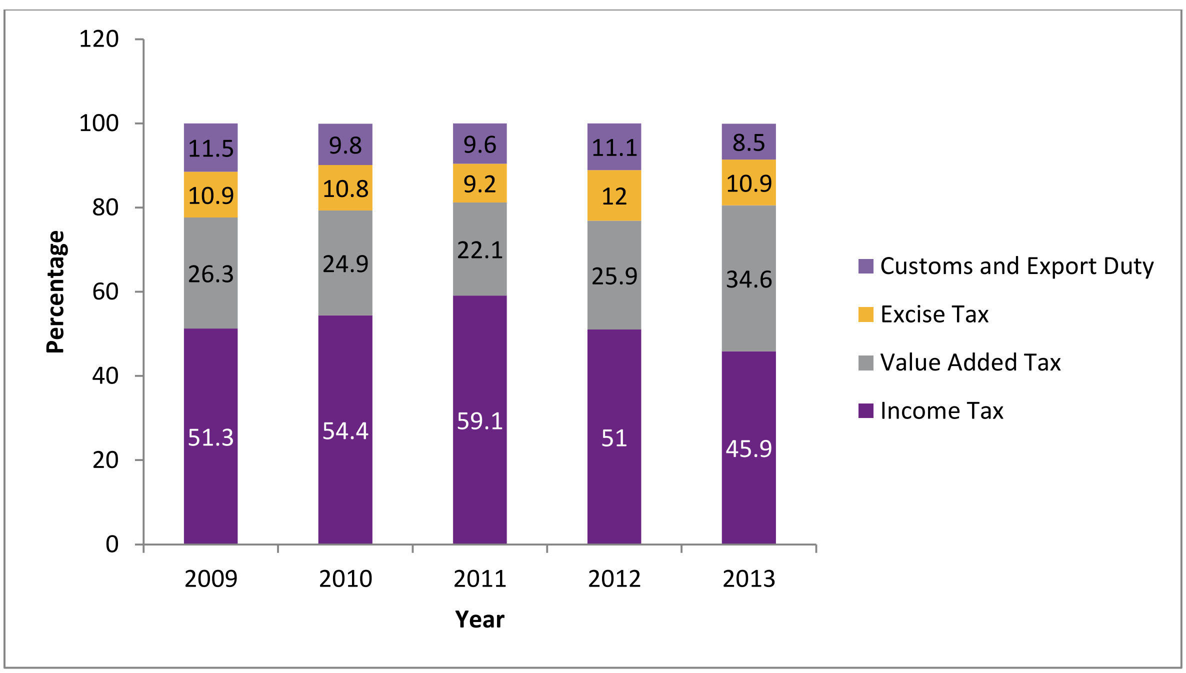

Table 1a: Zambia: Tax Collection from 2006-2014 (in Millions of ZMW)

Details	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014 projection**
Revenue and grants	16,665	10,626	12,606	12,182	15,198	20,233	22804	25,204	29,304
Domestic Revenue	6,458	8,522	10,358	10,315	13,809	19,519	20719	23,678	26,677
of which: *Mining*	59	650	769	636	1,500	5,095	4069	4,136	5,755
Tax Revenue	6,098	8,116	9,630	9,426	12,700	18,018	18318	21,366	24,401
Income Tax	2,741	3,765	4,673	4,838	6,914	10,655	9336	9,814	11,556
corporate	534	1,223	1,682	1,376	2,431	5396	4,402	4,131	6,308
Non-mining corporate	534	641	1,199	974	1,343	1,170	1,792	1,756	2796
mining corporate	_	582	483	401	1,088	4,226	2,610	2,375	3512
Personal	2,207	2,542	2,990	3,462	4,483	5,258	4934	5,683	5248
Value-added tax	1,792	2,231	2,215	2,475	3,160	3,973	4,743	7,392	7,323
Domestic	558	27	-391	307	515	-40	-279	1,242	405
Import	1,233	2,204	2,606	2,168	2,645	4,013	5,022	6,150	6918
Excise	821	1,205	1,418	1,024	1,377	1,665	2198	2,339	3114
Customs duties	744	916	1,324	1,089	1,250	1,725	2,041	1,821	2408
Non tax	360	406	728	889	1,109	1,501	2401	2,312	2,276
royalties	59	68	285	235	412	868	1,459	1,761	2243
others	301	338	443	654	697	633	942	551	33
Grants	10,207	2,104	2,248	1,867	1,389	714	2085	1526	2627
Nominal GDP	**38,561**	**46,195**	**54,839**	**64,616**	**77,667**	**93,344**	**106,435**	**125,947**	**135,474**

Table 1b: Tax collection as percentage of GDP

Revenue and grants	43.2	23	23	18.9	19.6	21.7	21.7	20.0	21.6
Domestic Revenue	16.7	18.4	18.9	16	17.8	20.9	19.5	18.8	19.7
of which: mining	0.2	1.4	1.4	1.0	1.9	5.5	3.8	3.3	4.2
Tax	15.8	17.6	17.6	14.6	16.4	19.3	17.2	17.0	18.0
Income Tax	7.1	8.1	8.5	7.5	8.9	11.4	8.8	7.8	8.5
Corporate	1.4	2.6	3.1	2.1	3.1	3.9	4.2	3.3	4.7
Non-mining corporate	1.4	1.4	2.2	1.5	1.7	1.3	1.7	1.4	2.1
Mining corporate		1.3	0.9	0.6	1.4	4.5	2.5	1.9	2.6
Personal	5.7	5.5	5.5	5.4	5.8	5.6	4.6	4.5	3.9
Value-added tax	4.6	4.8	4	3.8	4.1	4.3	4.5	5.9	5.4
Domestic	1.4	0.1	-0.7	0.5	0.7	0	-0.3	1.0	0.3
Import	3.2	4.8	4.8	3.4	3.4	4.3	4.7	4.9	5.1
Excise Tax	2.1	2.6	2.6	1.6	1.8	1.8	2.1	1.9	2.3
Customs duties	1.9	2	2.4	1.7	1.6	1.8	1.9	1.4	1.8
Non tax	0.9	0.9	1.3	1.4	1.4	1.6	2.3	1.8	1.7
royalties	0.2	0.1	0.5	0.4	0.5	0.9	1.4	1.4	1.7
others	0.8	0.7	0.8	1	0.9	0.7	0.9	0.4	0.0
Grants	26.5	4.6	4.1	2.9	1.8	0.8	2	1.2	1.9

Table 1c: Tax collection in percent of total tax revenue

Income Tax	44.9	46.4	48.5	51.3	54.4	59.1	51.0	45.9	47.4
Corporate	8.8	15.1	17.5	14.6	19.1	20.2	24.0	19.3	25.9
Non-mining Corporate	8.8	7.9	12.5	10.3	10.6	6.5	9.8	8.2	11.5
Mining corporate		7.2	5	4.3	8.6	23.5	14.2	11.1	14.4
Personal	36.2	31.3	31.1	36.7	35.3	29.2	26.9	26.6	21.5
Value-added tax	29.4	27.5	23	26.3	24.9	22.1	25.9	34.6	30.0
Domestic	9.2	0.3	-4.1	3.3	4.1	-0.2	-1.5	5.8	1.7
Import	20.2	27.2	27.1	23	20.8	22.3	27.4	28.8	28.4
Excise Tax	13.5	14.8	14.7	10.9	10.8	9.2	12.0	10.9	12.8
Customs Duties	12.2	11.3	13.8	11.5	9.8	9.6	11.0	8.5	9.9

Source: Adopted from Grote et al (2013) and extended using data from ZRA.

2.2. The Zambian tax structure compared to that of other economies

This section examines the Zambian tax system's competiveness based on a series of quantitative and qualitative indicators. Zambia is compared to other countries in Sub-Saharan Africa, SADC, the East African Community (EAC) and OECD. The analysis, however, is limited to the major taxes in 2012 and 2013, namely Personal Income Tax (PIT), Corporate Income Tax (CIT) and Value Added Taxation (VAT) which in total contribute about 80% of the countries' revenue.[6]

2.2.1 Personal Income Tax

In Zambia, Individual income is taxed at progressive rates from 25 percent to 35 percent (Table 2a). The PIT minimum rate of 25% is too high when compared to the un-weighted average of 14 percent for SADC; 11 percent for EAC; 10 percent for sub-Saharan Africa; and 15 percent for OECD. The top marginal rate of 35% though slightly higher than that for SADC (30%), EAC (31%)it is at par with the un-weighted average for SSA (34%) and compares favourably to that of OECD un-weighted average of 39.4 percent (Table 2). The PIT minimun income level ratio of 1.24 of Zambia indicates that only residents earning 1.24 times more than Zambia's per capita GDP have to pay tax. This implies that the tax free threshold as a percentage GDP per capita of Zambia is well above the unweighted avarege of 0.6 for SADC, 0.2 for EAC, 0.3 for SSA and slightly higer than OECD (1.2). On the other hand, the PIT maximum income level (PITMAXL) of 6.4 indicates that those whose earnings are 6.4 percent times the per capita income pay tax at the top marginal rate. Unlike the PITMINL, the PITMAXL for Zambia is at par with SADC unweghted average of 6.9. However the revenue productivity of the PIT for Zambia, at 0.14, is substantially lower than that of SADC and OECD at 0.4, and slightly lower than sub-Saharan Africa (0.2) but is at par with EAC (0.1). Similarly revenue from PIT, at 4.5 percent of GDP in 2013, is almost twice less than that of the SADC average (8.6%), and 35 percentage points lower than OECD (12.9) and lower than the sub-Saharan average (5.3). The narrow PIT tax base is due, in part, to the high threshold.[7]Grote, Benedek, and Sunley (2013)estimate that at PIT threshold of ZMW2,200 monthly income, only 7.5 percent of the total of 5.4 million employee population pay PAYE, which makes the PIT system highly unbalanced. This situation is even more unbalanced with a further increase in threshold of ZMW 3000 in 2014 (Table 2b).In addition, high-income individuals with capital assets benefit from the non-taxation of capital gains; these base erosions have resulted to low PIT productivity in Zambia when compared to the un-weighted averages in the neighbouring countries.

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[6]A comprehensive database containing comparative data for nearly 150 countries can be found at www.collectingtaxes.net

[7]A high threshold keeps low-income individuals off the tax rolls. However, setting the threshold too high reduces the average tax rate for high-income taxpayers more than for low-income Taxpayers (IMF report, 2010).

Table 2a: Taxable bracket as at 1st January, 2014[8]

Annual Income Bands	Rates
First K36,000	0%
Above K36,000 up to K45,600	25%
Above K45,600 up to K70,800	30%
Above K70,800	35%

Source: Budget Highlight (2014)

Table 2b: Zambia PIT tax structure and productivity compared to other economies

country	PITMINR[9]	PITMAXR[10]	PITMAXL[11]	PITMINL[12]	PITPROD[13]	PITY[14]
Zambia	25	35	6.4	1.24	0.14	4.5
SADC (unweighted average)	14	30	6.9	0.6	0.4	8.6
EAC (unweighted average)	11	31	1.6	0.2	0.1	3.5
SSA(unweighted average)	10	34	5.4	0.3	0.2	5.3
OECD(unweighted average)	15	39.4	4.7	1.2	0.4	12.9

Source: www.collectingtaxes.net database 2012/2013

[8] The 2017 budget proposes an exempt threshold of K39,600, to be taxed at 0%; K39,600.01-K49, 200, to be taxed at 25%; 49,200.01-K74,400, to be taxed at 30%, with a rate of 37.5% being applied for any income above K74, 000.
[9] PITMINR is Minimum Marginal Income Tax Rate defined as the lowest non-zero positive marginal tax rate applied to the lowest group in the personal income tax system
[10] PITMAXR is Maximum Personal Income Tax Rate defined as the highest marginal tax rate applied under the personal income tax system on the richest class of taxpayers.
[11] PITMAXL is the Personal Income Tax Maximum Income Level defined as the lowest level of income at which the top marginal personal income tax rate is imposed, expressed as a multiple of per capita GDP.
[12] PITMINL is the Personal Income Tax Minimum Income Level defined as the lowest level of income at which the lowest marginal personal income tax rate is imposed, expressed as a multiple of per capita GDP
[13] PITPROD is the Personal Income Tax Revenue Productivity. This indicator attempts to provide some sense of how well the personal income tax in a country does in terms of generating revenue. It is calculated by taking the actual revenue collected as percentage of GDP, divided by the weighted average PIT rate.
[14] PITY is the level of personal income tax collections as percentage of GDP

2.2 Business Taxation

Zambia's CIT structure is marked by multiple rates and preferential treatment of taxpayers (Table 3). Such multiple rates and preferential treatment do not only result in complexity and unpredictability of the CIT tax system, but also encourages arbitrage and revenue leakage with its resultant effect of low CIT yield. Table 5 shows that the general CIT rate, set at 35 percent for corporate taxable profits, is higher when compared to the un- weighted average of SADC (29.2%), EAC (31%), SSA (31%) and far higher than OECD (23.4%). Despite the relatively high CIT general rate of 35 percent for Zambia, the country's CIT productivity of 0.07 is lower than that of the unweighted average of member countries of SADC (0.2), but slightly lower than the unweigthed averages of other regions(0.1). A Similar pattern is observed for the CIT- to- GDP ratio. Exercerbating the CIT revenue position is the non-taxation of capital gains. The non-taxation of gains constitute a lost opportunity in raising revenues through re-characterisation of ordinary business income into tax-free capital gains[15] [Grote, Benedek, and Sunley (2013)]. Clearly these trends indicate that there is need for tax administrative reform in the CIT regime given that there is limited room for further increase in tax rates for both the mining and non-mining components of the corporate tax. One feasible reform measure is to consolidate all corporate income tax rates towards a more acceptable standard rate of 30 percent, thereby reducing the possibility of investors engaging in costly rent seeking behaviour. A consolidated tax rate will offer investors simplicity, predictability and certainty without having to apply for discretionary tax incentives[16] (Grote, Caner and Hutton (2010)). Furthermore, consolidating the corporate tax rates can ease the implementation of capital gains tax which is identified as a major tax base broadening reform measure to be undertaken by the government of Zambia.

Table 3: Zambia's Graduated CTD Rate Structure in 2013

Category of income stream Accruing To A Company Or Privileged Sector Taxed at:	CIT rate (in percent)
1. Income from Lusaka Stock Exchange listed companies	33.0
2. Income from Lusaka Stock Exchange listed companies if residents hold 33% of issued stock	30.0
3. Income from manufacturing and other	35.0
4. Income from banks with income up to K250,000,000	35.0
5. Income from banks with income in excess of K250,000,000	35.0
6. Income from mobile telecommunication operators on first K250 million	35.0
7. Income from mobile telecommunication operators on balance above K250 million	40.0
8. Large-scale mining companies	30.0
9. Income from farming	10.0

[15] Grote et al (2013) further note that non-taxation of capital gains necessitates costly tax planning which is overall an unproductive exercise given the skills scarcity in Zambia

[16] There are twenty CIT rate possibilities ranging from 0 to 40 percent. Although the revenue implication of such unification is unclear but it can recommended that it should done in a revenue neutral manner but it is expected that the elimination of tax holiday rates would enhance revenues over the short term (IMF, 2013)

10.Income from non-traditional exports	15.0
11. Income from business for charitable organizations	15.0
Business Enterprise Operating in a Priority Sector Declared under the ZDA Act of 2006	
12. Earned income for first 5 years	0.0
13. Rate reduced by 50% on income earned from 6-8 years	17.5
14. Rate reduced by 25% on income earned from 9-10years	26.3
15. Income from chemical manufacture of fertilizer (and manufacture of organic fertilizer)	15.0
16. Income of trusts, deceased or bankrupt estates	35.0
17. On income from rural enterprises-tax chargeable is reduced by 1/7 for a period of 5 years	30.0
Under the ZDA Act:	
18. Micro and Small enterprises for first 3 years in urban areas	0.0
19. Micro and Small enterprises for first 5 years in rural areas	0.0
20. Business with turnover up to KR800,000 excluding consultancy and professional services (presumptive tax)	3.0

Table 4: Zambia CIT tax structure and productivity compared to other economies

Country	CITR[17]	**CITPROD[18]**	**CITY[19]**
Zambia	35.0	0.07	3.3
SADC (unweighted average)	29.2	0.2	4.3
EAC (unweighted average)	31	0.1	2.8
SSA(unweighted average)	31	0.1	3.3
OECD(unweighted average)	23.4	0.1	**3.4**

Source: www.collectingtaxes.net database 2012/2013

Main issues

The multiplicity of CIT rates provide an incentive to investors to engage in a costly rent seeking behaviour, and a relatively low CIT productivity ratio resulting from narrow tax base due in part the non-taxation of capital gains for both legal and natural persons.

[17] It is the general rate applied for corporate income tax
[18] Corporate Income Tax Revenue Productivity represents how well corporate tax does in terms of revenue collection, given the tax rate. It is calculated by dividing total corporate tax revenue by GDP and then dividing this by the corporate tax rate.
[19] It is the level of corporate income tax collections as percentage of GDP.

Recommendations

1. Consolidate all corporate income tax rates towards a more acceptable standard rate of 30 percent. However, given government's policy to expand certain sectors considered critical to the economy, a phrased approach should be adopted in the proposed consolidation exercise. In particular, priority sectors with CIT rates lower than the proposed 30 percent might be delayed to a medium and long terms. Consolidation of CIT rates will provide a platform for the implementation of capital gains tax.
2. Fully implement CGT starting with the design and drafting of legislation and policy guide lines that address issue of rate, base, coverage determination and administrative procedures generally

2.3 Value Added Taxation

Zambia has a single VAT rate of 16 percent with zero-rated exports. The VAT is levied on businesses with annual turnover in excess of ZMW 800,000 (US$148,148)20. However; companies can voluntarily register if their annual turnover is below ZMW 800,000, including mining companies with no turnover during the construction phase. Imported services are subject to a reverse charge mechanism whereby the local customer of a non-resident supplier accounts for VAT on the supply received. In addition to standard exemption (e.g., for education and medical care), Zambia's VAT includes a long list of non-standard exempt goods (Grote, et al 2013).21 VAT refunds are to be paid within 30 days when input VAT exceeds VAT liability, but in practice VAT refunds are delayed.

Like the CIT and PIT rates, Zambia's VAT do not compare favourably with the unweighted average of countries in the SADC . At 16%, its VAT rate is 2.0 percentage points higher than the un-weighted average of 14 for SADC; and a percentage point higher than than of sub-Saharan African countries unweghted average. However, when compared to EAC, Zambia's VAT rate is lower by 2 percentage points. Despite the relatively high VAT rate, VAT productivity ratio of 0.2 is lower than that of SADC unweighted average of 0.5, and lower than the unweighted averages of other regions (Table5). The lower VAT productivity is due to excessive exemption as well as low compliance rate. The VAT gross compliance rate of 46.3 per cent is far lower than 67.7 percent for SADC countries and 70.3 percent for OECD countries. In dollar terms, the VAT threshold in Zambia is far higher than regional un-weighetd averages. It should be noted that a low or no VAT threshold could result into an undue tax compliance burden on smaller businesses without sophisticated recordkeeping as well as a unnecessary administrative burden on tax administration.

[20]Exchange rate is stable at ZMW 5.4 = US$ 1 since 2013
[21]For example, the 2012 VAT amended expanded the list of tourist services that are zero-rated and also zero-rated wheat, flour produced from wheat, and bread, including bread rolls and buns

Table 5: Zambia VAT tax structure and productivity compared to other economies

Country	VATR[22]	VATPROD[23]	VATY[24]	VATGCR[25]	VAT threshold US$[26]
Zambia	16	0.2	5.9	46.3	148,148
SADC (unweighted average)	14	0.5	6.8	67.7	48,161
EAC (unweighted average)	18	0.3	5.5	40.2	34,1856
SSA(unweighted average)	15	0.3	5.2	50	48,042
OECD(unweighted average)	19	0.4	7.3	70.3	38,028

Source: www.collectingtaxes.net database 2012/2013

2.4 Property Transfer Tax

Property Transfer Tax (PTT) differs from the Capital Gains Tax (CGT) in that the CGT is a tax on income (the value of the sale, less the original investment), whereas the transfer tax is a tax applied generally to the total value of a property transaction and must be paid in order to complete the transfer of title to another party (UN-Habitat, 2011). It is often charged even if the transfer is not the result of a sale. Most of the SADC countries levy some form of property transfer tax on the acquisition of immovable property (also referred to as fixed property).

2.5.1 Property Transfer Tax policy issues

- **Property Transfer Tax rate**

As noted by the UN-Habitat (2011) to arrive at the appropriate rate of PTT, policy makers should consider carefully the incentives created by the rates selected. High transfer tax rates may discourage business investment. And high transfer tax rates are likely to encourage misrepresentation of sales prices by buyers and sellers, which undermines other aspects of the tax system. Perhaps most detrimental, if taxpayers perceive the transfer tax to be too high, they are less likely to register the property transfer at all.

[22] It is the general rate at which most goods and services are taxed under the value added tax system

[23] Vat Productivity ratio is a measure of how well the VAT produces revenue for the government, given the VAT rate. It is calculated by the VAT collections by GDP and then dividing this by the VAT rate

[24] Is the level of VAT collections as a percentage of GDP

[25] VAT Gross Compliance Ratio is a measure of how well VAT produces revenue for government, but is a bit more refined than the VAT productivity indicator, since it takes into account the fact VAT is mostly applied to final consumption by households and individuals. It is calculated by dividing VAT revenues by total private consumption in the economy and then dividing this by the VAT rate

[26] It indicates the amount of annual turnover, or supply of goods and services above which taxpayers must file regular VAT returns. It also often represents the threshold above which businesses must register with the authorities as VAT payers.

PTT was first introduced in Zambia in 1984 through the Property Transfer Act, No. 12 of 1984. For the past three decades the tax has been in place, PTT rate has been revised starting at 2.5 per cent in 1984, it was increased to 7.5 per cent in 1993 but reduced to 3 percent in 2008 thereafter it increased to 5 percent in 2011 and further increased to 10 percent[27] in 2014 making it the highest in the SADC region. The rate was revised downwards to 5 percent in 2016 (see Table 6).[28] Table 6 shows that with the current rate of 5 percent, PTT in Zambia is comparable to the weighted maximum average of 7.67 percent for Europe; 7.1 per cent for Asia and 7.4 per cent for SADC countries. It is also clear from the table that there is wide variation in transfer tax rates with some countries such as South Africa, and Botswana having progressive rates whilst others like Zambia have flat rates.

Table 6: PTT in Zambia compared to other regions

Country	Minimum	Maximum
Zambia	5	
Europe Unweighted Average)	3.84	7.67
ASIA (unweighted average)	3.6	7.1
SADC (Selected countries)	**2.3**	**7.4**
Angola	2	
Botswana	2	5
Democratic Republic of Congo	3	
Malawi	3	
Mauritius	5	10
Mozambique	2	
Namibia	1	8
Swaziland	2	6
South Africa	0	8

Source: Computed from Worldwide personal and corporate income tax guide, 2013-2014

- **Property Transfer Tax base determination**

In Zambia, property transfer tax is currently administered under the Property Transfer Act (No3) 2012 and is levied on the realised value of any land including buildings in the republic; share issued by a company incorporated in the republic; and a mining right issued under the mines and Minerals Development Act, 2008, or an interest therein. The realised value is the price at which the shares or land could, at the time of transfer, reasonably have been sold on the open market.[29]

[27]The increase in the rate to 10% in 2014 was consistent with IMF mission recommendation in 2010 and was aimed to generate addition revenue of about US$10 million.

[28]Note that transfer tax is not the only cost in real estate transactions in Zambia. There are also user fees to be paid to the registry and costs of survey. Attorney fees and a commission charged by an estate agent are also involved. All of these costs create a wedge between the amount paid by the buyer and amount received by the seller.

[29] With reforms in the property market, property market in Zambia is now more visible than it was some decades ago, but suffice to say that it is still far from been efficient. In an efficient market, people needing land for productive use can identify appropriate parcels, negotiate a price, and complete the transfer with little cost in time, energy, or money other

Section 4 of the Property Transfer Tax Act mandates the transferee (or seller) to pay the tax and Section 9(1) furthers require the said transferee to render a provisional return of tax in such form and giving therein such details of the property and the transaction as may be prescribed by the Commissioner-General. In practice however, anecdotal evidence shows that the burden of the tax in Zambia is borne by the buyer due to tax shifting resulting mostly from the informal nature of property transfer tax in the country.[30]Buyers pay the tax along with other costs. Zambian real estate has been a seller's market so it seems that sellers can sufficiently raise their asking price to cover the transfer tax.

Box 1: Land titling and registration process in Zambia

The transfer of property, in particular land in Zambia, requires the seller and purchaser to employ a lawyer for the transaction.[31] The lawyer obtains a non –encumbrance certificate. A search is conducted at the Registry of Land and Deeds to provide more information about the land, owner of the lease and date of ownership. The seller then applies for the state's consent to assign. The Commissioner of Lands will verify that the property can be transferred, by checking if ground rent (rates) has been paid, and who is buying because the land in Zambia belongs to the State. This application is lodged with the Commissioner of Lands and if all ground rent has been settled and all application papers are in order, the Commissioner of Lands will issue the consent to assign. Whilst the State's consent to assign application is being processed, the buyer and seller can finalise the deed of assignment, but the sale price stated therein will be subject to the State's consent for the sale at that price. The documentations include: the consent application, consent fees, buyer's details such as nationality, address, etc. to show he qualifies to purchase property. The seller settles the Property Transfer Tax with the Zambian Revenue Authority (ZRA). The ZRA assesses if the value of the property is correctly stated in the deed of assignment and then it will produce a clearance certificate which is valid for 6 months. The tax is payable by the transferor (Seller). Both a receipt for the payment of the Property Transfer Tax (PTT) and the Tax Clearance Certificate are obtained in this step. The purchaser lodges the assignment for registration at the Lands and Deeds Registry to complete the process.[32]

2.5.2. Property Transfer Tax administration

In Zambia, the administration of PTT is in the hands of the Zambia Revenue Authority. Owing to limited capacity in ZRA the authority relies on the expertise of some other departments in the administration of the PTT.

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than the amount paid to the person or entity from whom the land is obtained (see Strasma, Mulenga, Musona and Siasumol at http://fsg.afre.msu.edu/zambia/resources/Chapter4.pdf. Zambia ranks 106 out of 189 economies for registration of property in the World Bank Ease of Doing Business report, 2015.

[30]For purposes here, informality includes situations where property rights (not necessarily freehold tenure) are transferred through private contracts that are not publicly registered.

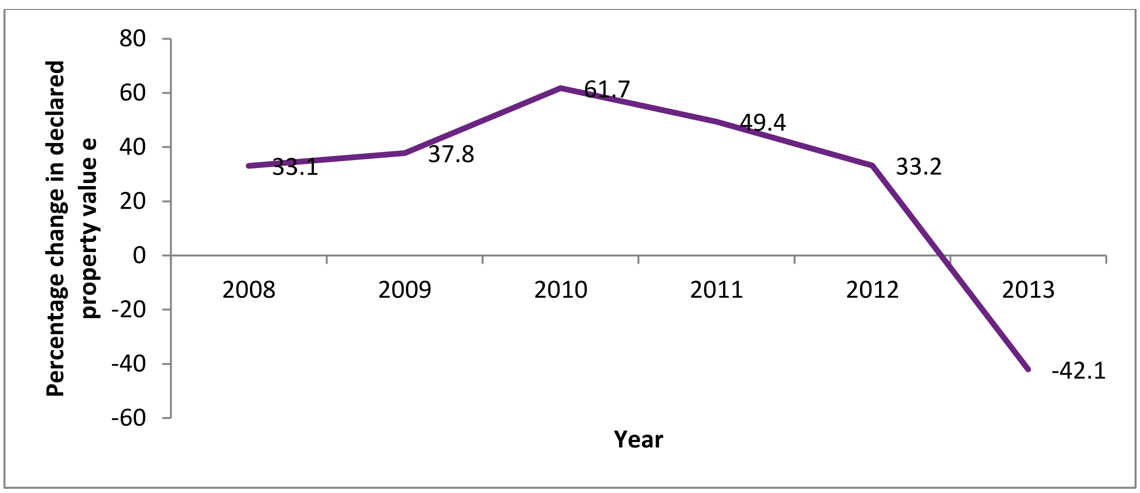
[31]The legal fees cannot legally exceed 10% of the sale price.

[32]Step by step process explained by authorities of the Zambia Revenue Authority and Registry of Land and Deeds, Commissioner of Lands during an in-depth interview with Research Assistant

- **Valuation and assessment of properties in Zambia**

Globally, transfer taxes are assessed when the statutory title[33] to property is transferred to another party. In Zambia the law mandates the Commissioner General to determine the open market price at the time of property transfer. However, owing to limited capacity of ZRA, in terms of lack of availability of valuers, the CG relies on information on values provided by the Government Valuation Department or an external valuer, in particular the contract price usually submitted through a conveyance prepared by a lawyer, to assess the property tax due.[34] Figure 3 shows an increasing trend in the growth of declared PTT value from 2008 to 2010 thereafter the trend reversed to a declining development since 2011 when there was an increase in the PTT rate from 3 per cent prior to 2011 to 5 per cent in 2011. Anecdotal evidence suggests that parties involved in the property transfer market have been falsely under declaring the actual price at which leaseholds or interests are changing hands. In addition, the valuation roll prepared by GVD which informs the valuation process is often out-of-date and is subject to exploitation. Moreover, the accreditation of valuation firms and monitoring of their activities has not been robust and therefore prone to corruption. With a further hike in rate to 10 per cent one would only expect further emergence of the underground property transfer market that may have undermined the anticipated revenue by Zambia Revenue Authority.[35] More importantly, at 10 percent, Zambia had one of the highest property tax rates anywhere in the world, before the rate was revised to 5% in 2016.

Figure 3: Growth in declared property value (2009-2013)



Source: Author's computation using data from ZRA

[33]Statutory title refers to a legally registered ownership claim or right that can also be defended in the courts. In contrast, many property rights are communal or informal.

[34] It is however expected that the introduction of Tax Online system will help with interfacing with Ministry of Lands; and will help reduce tax evasion and undervaluation.

[35] Theoretically, this tax should be eliminated or reduced to a nominal level, both to encourage more frequent transactions in land and improvements and to remove the incentive to falsely declare a transfer price below real price charged or paid.

Exemptions and relief from payment of PTT

There are several exemptions to the payment of the property transfer tax as provided for in Section 6 of the Property Transfer Tax Act, 2012. The section exempts the following from Property Transfer tax:

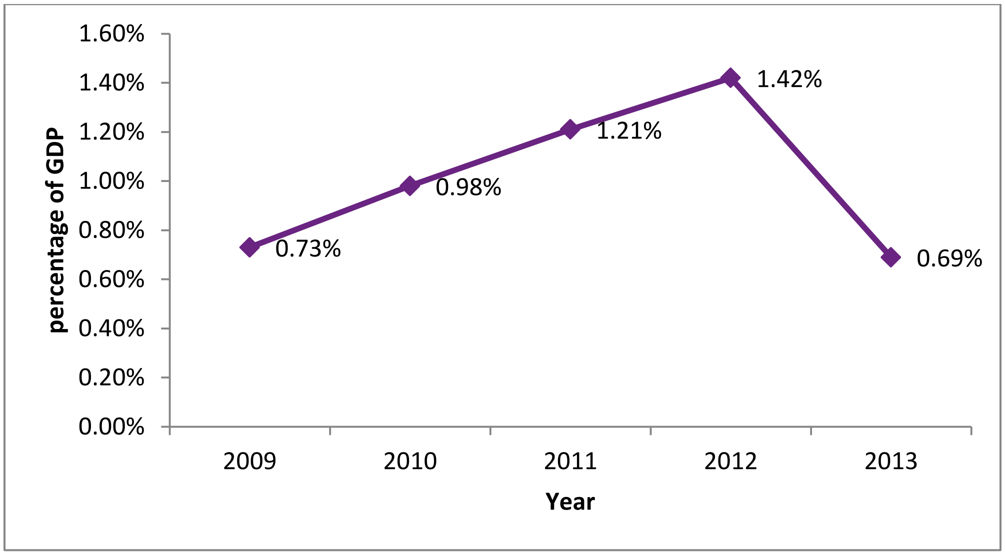
- Government of the republic of Zambia and any foreign governments represented in Zambia; Any charitable organisations or trust registered as such under tax act[36] ;Any co-operative society registered under the co-operative societies act[37];
- Any transfer of property by a shareholder of a company incorporated under the company's act, if such transfer is his contribution towards the equity of that company.
- Where property held in trust or constructive trust is transferred to another person to hold in trust or constructive trust for the same beneficiaries, such transfer shall not be liable to tax.
- Where property is settled in trust for the benefit of a member of the immediate family of the settler, the transfer of such property to the trustees or the transfer by the trustees to such beneficiary shall not be liable to tax.
- Where property devolves upon death, the resulting transfer of such property shall not be liable to tax if the transferee is a member of the immediate family of the deceased; nor shall any intermediate transfer to or by an executor, administrator, personal representative or other person acting in similar capacity be liable to tax if such intermediate transfer is carried out to give effect to such devolution.
- The Minister may, by statutory order, exempt from tax any person, transfer or property, or any class thereof.

Collection and enforcement of PTT

Figure 4 shows that with the increase in the PTT rate from 3 to 5 percent in 2011, PTT revenue share of GDP surged from 0.98 percent in 2010 to 1.21 percent in 2011 and further to 1.42 percent in 2012 but declined to 0.69 percent in 2013.

[36] Income tax act; cap.323
[37] Co-operative societies act; cap.397

Figure 4: PTT as percentage of GDP in Zambia



Source: author's computation using data from ZRA

Whilst the continued imposition of property transfer taxes can be justified on the basis that there is no capital gains tax and the property tax administration is also underdeveloped, the continuous increase in the flat rate for PTT is not advisable as it may only succeed in impeding the proper functioning of the property market. Furthermore, ZRA should ensure that buyers, sellers, and functionaries know that the government is more serious about enforcement of tax collection and accurate reporting of the sale price. One possible way of doing this is to institute robust data matching process with third parties involved in property transaction. For instance, ZRA could match value of property declared for tax purposes with declared purchase price when the property is mortgaged to the bank in order to guarantee payment. Secondly, severe fines and penalties should be instituted for defaulters. Moreover, legal requirement linking value declared for tax purposes to compensation in the event of expropriation could be another option to minimise underreporting of actual sales value of property.[38]Finally, the introduction of Capital Gains Tax on property whose inherent self-checking mechanism (with opposite interests for buyers and sellers in declaring high sales values) could reduce or eliminate the incentive for under-declaration (Bahl, 2009).[39]

Main issues

1. A high property tax rate is onerous and provides an incentive for parties involved in the property transfer market to falsely under declare the actual price at which leaseholds or interests are changing hands, and so it weakens the database that is necessary for objective assessment of annual property.

[38] See Strasma, Mulenga, Musona and Siasumol at http://fsg.afre.msu.edu/zambia/resources/Chapter4.pdf.
[39] With the introduction of CGT, property transfer tax will become an advance tax since it is part of the cost allowed in the computation of capital gain. Thus PTT becomes more relevant for cash flow purposes, and the reason for not imposing higher rate when CGT is implemented.

2. The valuation roll prepared by GVD which informs the valuation process is often out-of-date and is subject to exploitation. Moreover, the accreditation of valuation firms and monitoring of their activities has not been robust and therefore prone to corruption.

Recommendations

1. Consider reducing PTT from the current 5 percent to 3 percent, but only once CGT is fully implemented and efficient. Note, once CGT is implemented using the base cost approach PTT becomes more relevant for cash flow purposes since it forms part of base cost that will be deducted in the computation of CGT. In addition, for properties that are exempt from CGT such as primary residence[40] revenue can still be generated from transfer or disposal of such property using PTT. CGT do not only have positive revenue impact but have a self-checking feature that could minimize under declaration, and so could help strengthen valuation for the annual property tax.
2. Institute robust data matching process with third parties involved in property transaction. For instance, ZRA could match value of property declared for tax purposes with declared purchase price when the property is mortgaged to the bank in order to guarantee payment.
3. Severe fines and penalties should be instituted for defaulters.
4. Moreover, legal requirement linking value declared for tax purposes to compensation in the event of expropriation could be another option to minimise underreporting of actual sales value of property.
5. GVD in consultation with ZRA can institute a system of accreditation for valuers. Annual license can be issued to qualified valuers, and valuers can be deregistered if there performance is unsatisfactory.
6. Capacitate the GVD to regularly update valuation rolls; and ZRA to institute independent appraisal system for all high end sales, and for a sample of all other sales.

2.6 Mining Rights Tax

In most jurisdictions throughout the world, with the exception of very few countries, mineral resources are in public rather than private ownership. Mineral resources are finite and non-renewable in the sense that their extraction permanently depletes a country's resource inventory. The role of governments is to manage the exploitation of these resources to maximise the economic benefits to communities, consistent with the need to attract and retain the exploration and development capital necessary to continue to realise the benefits for as long as possible Pietro(2012).

Zambia has faced a number of changes to its mining fiscal regime since the year 2003 almost rendering the regime unstable. A number of changes have being made to the mineral royalty regime both on the rate and on the tax base, similarly under the corporate income tax, several changes have been made to the capital

[40] A residence is considered as primary residence if 1). It is owned by a natural person (not a trust, company or close corporation), and the owner or spouse of the owner ordinarily reside in the home as his or her main residence and use the home mainly for domestic purposes.

expenditure deductions, thin capitalisation ratio, loss carry forward period, ring-fencing rules and the tax rate among other changes. The changes to the fiscal regime have been attributed to the need to obtain a fair share of revenues from the mining sector as well as curb on illicit outflows. The country saw a dramatic change to its mining regime in 2008 when the Zambian government broke the stability clauses within the Development Agreements (DAs) without any negotiation[41] with the mining industry [Manley (2012)] and the introduction of windfall tax and a variable profit tax[42]. However, the windfall tax was abolished the following year amid an outcry from the mining sector that the tax regime was onerous.

Another dramatic change in the regime was announced later in October 2014 in the National Budget Speech, 2015[43]when the budget address proposed to abolish the dual (royalties and corporate tax) regime and introduce a royalty-only regime, effective 1stJanuary, 2015.[44]Several companies responded to this proposal and some announced postponement of planned investments, and one company served notice to government that it was going to put its operations in care and maintenance mode (IMF, 2015).[45]

The tax base for mineral royalty has however remained the same, that is, precious and base metals are charged mineral royalty on their Norm Value and other minerals are charged on Gross value[46]. Norm Value does not represent the actual sales value as it is calculated based on the monthly average cash price of the metal as published by the London Metal Exchange (LME) or Metal Bulletin commodity exchange. It is arguable that charging mineral royalty using the norm value on semi-processed minerals is unfair as semi-processed minerals like concentrates are sold at less than LME price, conversely the use of the norm value as a tax base avoids any chance for transfer pricing schemes.

In Zambia, mineral royalties has shown a strong growth with a low revenue importance of 0.2 per cent of GDP in 2006 to 1.4 in 2013 and is projected to grow further to 1.7 per cent[47] of GDP in 2014 (Table 1b). However, continuous instability in the fiscal regime for the sector is a serious threat to growth in revenue from the sector.

A summary of some of the changes to the fiscal regime over the years is highlighted in the tables below:

[41]This was roundly criticized (Lungu, 2008) and seems to have taken the mining companies by surprise even though they had previously appeared willing to negotiate (Committee of Economic Affairs 2007, in Manley2012)

[42]This is a corporate tax rate that varies from 30% to 45%. The applicable tax rate is 30% where the ratio of taxable profits to gross sales is below 8%, and where the ratio exceeds the 8%, the rate is determined by the formula.

[43]2015 National Budget Address by Hon Alexander B Chikwanda, MP (www.zra.org.zm)

[44]Proposed increase in royalty from 6% to 8% for underground mines and 20% for open cast mining operations as final t0061.

[45]On April 20, 2015 the government announced that the mining fiscal regime will revert to a system similar to what was in place in 2014.

[46]*Gross Value* is the realised price for a sale free on board at the point of export from Zambia or point of delivery within Zambia (Mines and Minerals Development Act No 7 of 2008, as amended by Act No 11 of 2014 Section 133 (5))

[47]Preliminary figures from the IMF however states that royalty to GDP ratio declined to 1.0% in 2014 but it is projected to increase to 2.3% in 2015 (IMF, 2015).

Table 7a: Income Tax (Profit Based tax)

Tax Year:	DA[48]	2008/9	2009/10	2012	2013	2015
Company Tax Rate	25%& 35%	30%	30%	30%	30%	0%
Variable Profit Tax Rate (max 45%)	No	Yes	Yes	Yes	Yes	No
Capital Allowance	100%	75%[49]	100%	100%	25%	25%
Tax loss carry forward (years)	5, 10 & 20	10	10	10	10	10
Hedging income taxed as part of mining income	Yes	No	Yes	Yes	No	No
Allowed Debt : Equity ratio	2:1	3:1	3:1	3:1	3:1	3:1

Source: Manley, 2012

Table 7b: Revenue Based Taxes

Tax Year:	DA[50]	2008/9	2009/10	2012	2013	2015
Windfall Tax	No	Yes	No	No	No	No
Mineral Royalty Rate	0.6%, 2% & 5%	3% & 5%	3% & 5%	6%	6%	6%, 8% & 20%
Mineral Royalty base	Gross Value	Gross & Norm Value	Gross & Norm Value	Gross & Norm Value	Gross & Norm Value	Gross & Norm Value

Source: Manley, 2012

Mining rights transfer

Property definition for the purpose of PTT, as already stated in the text, covers mining rights. The PTT Act No. 13 of 2012 mandates the imposition of PTT on mining right issued under the Mines and Mineral development Act, 2008, or an interest therein. The mining right granted under the Act include: prospecting licence, large-scale mining licence, and large-scale gemstone licence, prospecting permit, small-scale mining licence, small-scale gemstone licence and artisan mining rights. Artisan mining rights are not transferrable hence are excluded.

Like the non-mining property, there have been some changes in the PTT rate for the transfer of mining rights, and most recent is the increase in the rate from 5 per cent to 10 per cent in 2013. In the case of

[48] Development Agreement – Entities with DA's enjoyed a lower tax rate of 25% and also a longer period for carrying forward losses of either 10% or 20% depending on the company.
[49] The rate was meant to reduce gradually – 2008/9 at 75%, 2009/10 at 50%, thereafter at 25% but this was reversed.
[50] Development Agreement – Mineral royalty rates for entities with Development Agreements were at 0.6%

valuing mining rights, the laws states that the realised value shall be the actual price of the mining right or interest therein at the time of the transfer of the mining right or interest or as determined by the CG whichever is higher. The Act states that the realised value shall be determined by the CG on the basis of the values given by the Ministry of Mines and any other valuable information. Whilst available data is unable to separate the property transfer tax revenue into mining rights and non-mining assets and the property transfer value into mining rights and non-mining assets, one would expect very little under valuation issues in respect of PTT for transferred mining rights[51]

The revised Mining Act, 2008 simplifies licensing procedures, places minimum reasonable constraints on prospecting and mining activities, and creates a very favourable investment environment for investors doing large scale mining. As per the revised Mines and Minerals Act (2008), three types of licenses are available to the large scale operators and similar rights are also available to smaller operators but on a reduced scale.

Large Scale Operators

1. ***Prospecting Licence*****:** This confers the right to prospect for any mineral over any size of area for a period of two years renewable
2. ***Retention Licence*****:** This confers the right to retain an area, subject to the Minister's agreement, over which feasibility studies have been completed but market conditions are unfavourable for development of a deposit at that time. Size of the area may be that covered by the Prospecting Licence or smaller area as redefined by the Licence holder
3. ***Large Scale Mining Licence*****:** This confers exclusive rights to carry out mining operations and other acts reasonably incidental thereto in the area for a maximum of 25 years. The area to be held should not exceed the area reasonably required to carry out the proposed mining operations. Applications need to be accompanied by environmental protection plans and by proposals for the employment and training of citizens of Zambia.

Small Scale Operators

1. ***Prospecting Permits***: relate to areas of $10km^2$ and have a duration of 2 years non-renewable
2. **Small Scale Mining Licences:** relate to areas not exceeding 400 hectares and have a duration of 10 years renewable
3. ***Artisans Mining Rights*****:** give the right to local people to mine on an artisanal basis an area, not exceeding 5 hectares, for a period of 2 years non-renewable
4. ***Gemstone Licences*****:** holders may carry out mining operations over an area, not exceeding 400 hectares, for a period of not more than 10 years

[51]Information on the realized value of mining right is provided by the Ministry of Mines with relatively better capacity.

In terms of relief from other surcharges, the Act states that a holder of a mining right is exempt from customs, excise and VAT duties in respect of all machinery and equipment (including specialised motor vehicles) required for exploration or mining activities.

Furthermore, certain tax changes were made in the Zambia 2013 budget to broaden the tax base of mining right tax.[52] Key among these changes is the provision that amended the Property Transfer Tax (PTT) Act to provide for a realised value on the transfer of a mining right and the definition of a group of companies. This measure is intended to provide clarity on what constitutes a Group of Companies in relation to internal group re-organization for the purposes of the Property Transfer Tax Act.[53]

Main Issues

No specific issue was identified in the study with regards mining right owing to paucity of data which limited the study. However, the study identified that the continuous instability in the fiscal regime for the mining sector is a serious threat to growth in revenue from the sector.

Recommendations

There is no recommendation for a change in the mining rights thus not a high priority for reform. However, good practice requires stability over time in fiscal regime whilst also being flexible to fluctuation in the economic and financial conditions.

3.0 Non-Taxation of Capital Gains

In Zambia, neither legal nor natural persons are liable for capital gains tax (CGT). However, where an asset is sold in respect of which capital allowances have been or could have been claimed, the excess of the proceeds from the asset over the tax written-down value is treated as a balancing charge which is combined with the entity's taxable income. In each case the balancing charge is restricted to the allowances previously claimed not gains realised to the extent that assets are sold above the original cost (Grote et al, 2013).

By not taxing most capital gains, Zambia is unusual amongst several of its trading partners[54] and among few countries in SADC not taxing capital gains (See Table 8).

[52] Zambia 2013 Budget Highlights.
[53] This often a big loophole in the law.
[54] OECD countries, United States of America and China etc. levy capital gains tax.

Table 8: Implementation of Capital gains Tax in SADC region

Country	Taxing Capital gains? Yes	No
Angola	√	
Botswana	√	
Congo, DRC	√	
Lesotho	√	
Mauritius		√
Malawi	√	
Mozambique	√	
Namibia	Partial, only sales of mining or exploration shares	
Seychelles		√
South Africa	√	
Swaziland		√
Tanzania	√	
Zambia		√

Source: Computed from Worldwide personal and corporate income tax guide, 2013-2014

Besides being unusual amongst trading partners and SADC, there are reasons in the public economics literature that supports the taxing of capital gains, which are:

- Horizontal equity demands that individuals in similar economic circumstances should bear a similar tax burden, irrespective of the form the accretion of economic power takes. In other words, taxpayers should bear similar tax burdens, irrespective of whether their income is received in the form of wages, or capital gain. In this context, the exclusion of capital gains from the income tax base fundamentally undermines the horizontal equity of the tax system. For instance, an individual who invests ZMW100 000 on fixed deposit at 10% a year has the same ability to pay as one who invests ZMW100 000 in shares and derives a dividend of 3% and capital gain of 7%. Without CGT the latter individual pays no tax while the former pays up to 40% on the interest income. The same principle applies to individuals earning income by way of salary compared to those deriving income in the form of capital gains.

- Similarly taxing capital gains can be argued along the line of vertical equity which states that taxpayers with greater ability to pay taxes should bear a greater burden of taxation. International experience indicates that the biggest share of capital gains tax revenues can be attributed to the wealthiest of individuals.[55] Thus, including capital gains in taxable income contributes to the progressivity of the income tax system, while enabling government to pursue other tax policy objectives, premised on widening tax bases and reducing standard tax rates.
- Tax shifting i.e. when capital gains are not taxed, taxpayers have an incentive to recharacterise income as capital. Taxpayers are also encouraged to shift from income bearing investments to those that produce capital gains. This erodes the tax base and results in an artificial allocation of resources. Many of the techniques for converting income to capital rely on deception or non-disclosure for their success – for example, a taxpayer sells his business for a lump sum and agrees to remain on as a consultant for no remuneration – the so-called 'income burn out' scheme. In this case his remuneration has simply been disguised as part of the lump sum – a ploy not unlike the bogus restraint payment.
- The introduction of CGT will enable the tax base to be broadened thus facilitating lower overall tax rates.

Given the aforementioned justification for introducing capital gains tax, the ultimate objective for any authority should be the comprehensive taxation of capital gains. However, critical to the implementation of this tax like other wealth taxation, is the appropriate design of policy in terms of rate, base and exemption determination as well as administrative issues such as transition, implementation design, assessment, and enforcement mechanism. All of these could be complex and time consuming as they will require drafting of legislation and policy guidelines, training of ZRA staff, taxpayer education and adjustment in IT system. The general arguments in the literature for both policy and administrative issues of capital gains tax are discussed below:

[55]Since Zambia currently do not tax capital gains, its "gross taxable income" profile excludes most capital gains. It would be interesting to analyse the distribution of capital gains income to identify how far the taxation of capital gain income could alter the distribution of taxable income. Unfortunately these data are not available. However , based on World Bank's poverty survey only about 1% of the population in Zambia can afford the cheapest formal house, which is about US$68,363 as at 2013 (Kundu,2013); and the high Gini coefficient of about 0.65 (Living Conditions monitoring Survey report 2006 and 2010) could suggest that few individuals own capital.

- **Rate determination:** the main argument is whether to tax capital gains at the same normal income tax rate or give concessional rates to capital gains tax. The argument for concessional taxation is that capital gains are different from other forms of income. Since capital gains typically accrue on risky assets, taxing them deters risk-taking, to the detriment of the economy. Another argument posited in favour of lower tax is that capital gains are eroded by inflation. Gains on corporate shares and unit trusts also represent income that has already been subject to company-level tax, making individual level taxation an inefficient double tax. Perhaps the most persistent argument in favour of lower rates on capital gains is that taxation upon realization creates an inefficient lock-in effect.[56] And, finally, taxing capital gains discourages saving Burman and White (2003). Critics counter that concessional taxation of capital gains is unfair. It favours taxpayers who earn their income in the form of capital gain over those who earn income in the form of interest, rents, or royalties. It favours wealthy taxpayers over those less fortunate (because high-income people are much more likely to have capital gains than those with modest means). Furthermore, critics complain that concessional taxation of gains encourages tax avoidance, which is unfair, because aggressive (generally high-income) taxpayers pay less tax than others, and inefficient, because the financial wizards, lawyers, and accountants who design tax avoidance schemes could otherwise be doing productive work and because such schemes often involve investments or business strategies that would make no sense without the tax savings. Thus the myth is that lower capital gains tax rates will somehow result in people shifting income to capital gains. However if it was so easy to convert income to capital gains then countries who have a CGT rate of zero cannot raise any income tax. On the contrary, in Australia ,for example, personal income tax yielded at least as much revenue when the capital gains tax was zero as it did after adopting the highest capital gains tax in the world. Personal income tax was 12.5% of GDP in 1980, with no capital gains tax, and 12% in 1994, with a high capital gains tax (Adams Smith Institute, 2004). Generally, in most OECD countries long-term gains held by individuals are taxed at a fraction of the rate of income typically more than they would be under a consumption tax and less than they would be under a pure income tax. In South Africa, inclusion rates[57] are also provided for individual and companies at 33.3 percent and 50 percent respectively. Other countries in SADC have taxed capital gains at the same rates as ordinary income (see Annex 2)

- **Base determination:** Under a pure Haig-Simons income tax, capital gains would be taxed as ordinary income as they accrue, like interest payments, not as realized, because the increase in asset value represents an accretion to wealth. In a similar vein, accrued capital losses would be immediately deductible. Income and expenses are indexed for inflation therefore on real gain or

[56]The incentive to hold onto underperforming assets to avoid paying capital gains since capital gains tax is voluntary and can be postponed.
[57]Inclusion rate is the percentage of capital gains income that will be included in the normal taxable income and taxed at the normal rate.

loss on the asset should be included in income (Burman and White, 2003). Burman and White, 2003 note that the realised-based tax is the only practical option since some assets are hard to value and even for those whose values are easy to assess annually, it would be unreasonable to require taxpayers to pay tax before they have disposed of the asset and realized the cash from sales. Thus, in practice there are four critical blocks for Capital Gains Tax base determination which include, 'asset', event, "returns from event" and 'base cost'. Assets are often considered as property of any kind, including immovable, tangible or intangible, excluding trading stocks and mining assets, those disposed of by any natural person (individual) or any legal person (including a company, a close corporation or a trust) resident in the country. Note that asset definition (i.e. base definition) should be as broad as possible to ensure the capture of adequate revenue in an efficient and equitable manner. The other important building block is the base cost of an asset. The base cost of an asset in essence consists of three broad components, namely, costs directly incurred in respect of the acquisition of an asset, improvement of an asset, and direct costs in respect of the acquisition and disposal of an asset. But current costs such as interest, repairs, insurance premiums and rates and taxes, may not form part of base cost since these costs would normally be on revenue account, rather than being capitalized. A capital gain or loss therefore is the difference between the base cost of an affected asset and the consideration realised upon the disposal of the same asset.

- **Exemptions**: In principle, providing an exemption for capital gains encourages taxpayers to engage in schemes to convert other forms of taxable ordinary income into non-taxable realised capital**.** For instance, an exemption for capital gains on owner -occupied home would favour investment in housing over other, possibly more productive assets, which has efficiency implications. In practice however, many jurisdictions in OECD including Australia exempt owner-occupied home held for a minimum period and in South Africa a primary/principal owner occupied residence is exempt from CGT (SARS, 2011). In exchange for this concession, effective property tax would be levied on owner-occupied housing so as not to create an artificial incentive to invest in housing. Provisions are also made for "roll-over"[58] implying that a CGT liability does not arise upon disposal or transfer of ownership but is rather deferred until a subsequent CGT event.

Another critical issue to consider in CGT design is its administration i.e. whether CGT should be considered a separate tax or included in the normal income tax. The general practice (See annex 1) is that since CGT form part of normal income tax, chargeable net capital gains or losses are included in the normal income tax return[59] and subjected to rates applicable to taxpayers. This approach has administrative advantages as the existing provisions and procedures of the Act can be used to collect CGT. If CGT is introduced as a separate tax, provisions would have to be introduced for matters such as returns, assessments, payment

[58] Such as death, disability, insolvency or retrenchment
[59] Note, capitals gains and losses are to be excluded from the computation of provisional tax, based on the irregular nature of such item

and recovery of tax, and objection and appeals, which are already provided for in the normal Income Tax Act.

However, if the government of Zambia decides to include capital gains more broadly in the tax base, it will have to decide how to manage the transition. This is particularly important if capital gains are taxed on realisation. Canada and Australia for instance took different approaches to phasing in capital gains taxation. Canada on one hand decided to tax future gains on existing assets after a set date, called the valuation date or V-date, which was seen as been inequitable to taxpayers holding assets with losses as of the V-date; on the contrary, Australia exempted tax assets that had been purchased before the effective date for their legislation. In the Australian model, people did not have to try to establish the cost basis for an asset that had been held for decades and for which records might be scanty or non-existent. The downside of this model however is that it created lock-in effect. Assets held in 1985[60] were to be tax exempt, where as a newly purchased asset would be taxable on any future gain.[61] South Africa uses the base apportioning method in which assets acquired before the effective date and disposed of thereafter are subject to CGT on a time-based apportionment basis or a valuation basis, if so elected by the taxpayer (SARS, 2011). This means that although an asset acquired before the effective date is affected by the introduction of CGT, any capital gain or loss accruing up until the effective date is not subject to CGT. Only capital gains or losses accruing after the effective date are subject to capital gains tax.[62]

3.1 Personal Income from Capital

Table 9 shows that resident individuals' dividends are subject to the final WHT of 15 percent on the gross amount. In the event the company distributing the dividend fails to do so the individual is required to declare it in his annual income tax return and taxed at the same rate. As at 2013 royalty and rental income from immovable property were subjected to 15 percent tax, however this rate has been reviewed downward as at 2014. The WHT is not final and therefore the individual is required to declare the income at year-end and pay tax at appropriate rates. However, WHT on interest earned by individuals from savings or deposit held with financial institutions such as banks or building societies is removed since 2013 (Budget Highlight, 2013). This move by government is aimed to lessen the burden of taxation on individuals and also encourage savings mobilization and help deepen financial inclusion.

[60]Canada introduced a realization based capital gains tax in 1973 whilst Australia introduced it in 1985.
[61]Given an effective capital gains tax rate of 20%, an asset in a portfolio would be held even if it were expected to pay a 20% lower rate of return than alternative investments. This implies that the gain on pre-1985 asset that are exempt from capital gains tax as long as they are held, will worth 25% more if held than they would be to a new purchaser in the same tax bracket (Burman and White 2003).
[62]The basis of valuation for all marketable shares, bonds, tradable derivatives and other tradable securities listed on a recognized formal exchange will be the average of the closing price for the three business days before the effective date and two business days after the effective date (SARS, 2011).

Table 9: Withholding tax from capital

Income	Rates					
	2009	2010	2011	2012	2013	2014
Individual Dividend	15%	15%	15%	15%	15%	15%
Royalty and rental income from immovable property	15%	15%	15%	15%	15%	10%
Turnover tax	3%	3%	3%	3%	3%	3%
Interest payment (Excluding interest on government securities)	15%	15%	15%	15%	0%	0%

Main issues

1. There is no tax on capital gains in Zambia, and this leaves a substantial loophole in the tax system. The result is a potential revenue loss and the use of tax planning strategies to classify income as capital gains in order to reduce income tax liability.

Recommendation: Fully implement CGT starting with the design and drafting of legislation and policy guiding lines that address issues of rate, base, coverage determination and administrative procedures generally. Specifically,

- Include CGT in the normal income tax regime but use an inclusive rate of 50% for personal income tax given an effective CGT rate of 17.5% which is above VAT rate but lower than the income tax rate.
- Once CIT rate is unified at 30% for subject companies to tax on net capital gains at 30% rate with no inclusion rate
- Broaden the CGT base to include disposal of immovable and marketable securities not on the revenue account.
- Use cost base method to determine the CGT.
- Exempt principal owner occupied homes/primary residence from CGT but reform property rate administration to ensure that owner-occupied homes are captured on the property cadastral and taxed under the property tax regime.
- Exempt assets acquired before agreed valuation date from CGT. Use base apportioning method.

4.0 Taxation of immovable property

4.1 Introduction

In the past two decades or so, there has been growing interest in the potential benefits of decentralisation in the developing world. Several authors [Bardhan(2002);Agrawal and Ribot(1999); Faguet(2004)]have noted that, decentralisation is expected to improve the efficiency of government activities by moving the level of decision-making closer to those most affected by government action. These gains in efficiency are expected to be reinforced by improvements in the responsiveness and accountability of government: as decision-making is brought closer to citizens, they are expected to play a more active role in shaping government policy and monitoring implementation. In return, citizens maybe more than willing to pay taxes because they get more of what they want by way of services and accountability.

However, whilst there has been much attention to the potential benefits of decentralisation, results in practice have been much more mixed [Jibao and Prichard (2013)]. This in part reflects an overly-optimistic view of the likely benefits of decentralisation, and many studies have since captured the role of local political dynamics in shaping outcomes from decentralization [Crook and Sverrisson (2003); Devarajan, Khemani and Shah (2009)]. In addition to this general proposition is the possibility that the mixed results of decentralization in part reflect the fact that the decentralisation of *expenditure* responsibilities has almost universally not been accompanied by a similar decentralisation of *revenue-raising* responsibilities and capacity (Bahl 1999; German, Haggard and Willis (2001)). This distinction is important, as the decentralisation of revenue-raising power is central to the expected benefits of decentralisation though frequently overlooked [Bahl and Bird (2008); Bahl and Martinez-Vazquez (2007); in Jibao and Prichard (2013)]. Firstly, local revenue sources are essential to ensure that local government exercises genuine autonomy from central government, and thus underpin the prediction that decentralization will improve the alignment of government spending with public priorities [Bahl (1999)]. Secondly, local revenue collection, rather than decentralised spending alone, is likely to be an important driver of the accountability gains predicted by proponents of decentralization (Jibao and Prichard, 2013). People take more interest in what they have to pay for and are hence more likely to be interested in ensuring that they get value for their contributions' (Bird and Vaillancourt 1998).

Within the broader category of local government taxation, property taxation is widely regarded as the most viable source of sustainable financing for local government; it is also highly progressive, does not distort economic incentives, and may be particularly likely to spark accountability due to the potential for closely linking revenue collection and service provision (Bell and Bowan (2002); Fischel (2001); Prichard (2010a);Bird and Slack (2006) in Jibao and Prichard, 2013). In practice however, property tax collection in most developing countries has tended to be extremely disappointing accounting for 0.6 percent of GDP in the 2000s, far below 2-3 percent of GDP for OECD countries in the same period [Bahl(2009), Norregaard(2013)]. This is in part attributable to weak capacity among local councils, led by the difficulty of maintaining effective cadastral surveys [Kelly (2013)].However; there is significant agreement that the greatest barrier to effective property taxation is political. Property taxes are borne primarily by elites, who are likely to resist the tax; they are also highly visible to taxpayers, and likely to prompt resistance (Bird and Slack 2006).

4.2 Local governance and fiscal decentralisation in Zambia

Zambia is a unitary state with two levels of government; Central and Local. At the local level, there is a single-tier system of government comprising three types of councils, namely: City, Municipal and District Councils responsible the provision of services. As at 2014, there are 104 local councils made up of 4 City councils, 14 Municipal councils and 87 District Councils. The estimated population as at 2010 is shown in Table 10. Table 10 shows that as at 2010 the urbanisation rate in Zambia (i.e. people staying in cities and big towns) was about 44.6 percent and with it huge infrastructure and social needs.

Table 10: Distribution of Local Council population

Local Authority	2010 population	% of Total
City Council	2,862,299	21.9
Municipal Council	2,958714	22.7
District Council	7,225,495	55.4
Total	13,046,508	100

Source: 2010 Census of Zambia

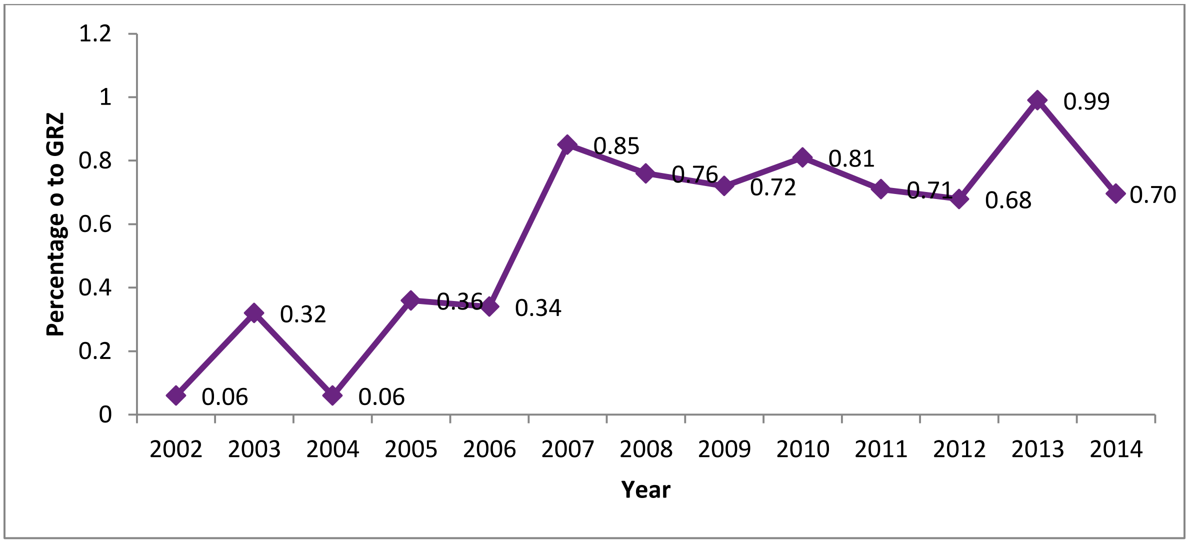
The operation of Local councils came into effect in 1965 with the enactment of the Local Government Act of 1965 on 1st November, 1965. Under this Act, the local councils were responsible for the operation of electricity and water supply and sanitation and therefore received 70 percent of income in the form of grant from the central government through the Ministry of Local Government Housing, whilst 30 percent was met by revenue raised from local levies, fees and charges. Thus, the period 1965 and 1973 was a period of success since councils were able to plan and implement adequate service delivery programmes (UN-Habitat, 2012).However, beyond 1973 the success attained by the local councils in terms of own revenue generation started to fade away owing to the Central Government (CG) policy actions that eroded the revenue base of councils. For instance, in 1973 CG withdrew the housing, police grant and fire grant from the councils; and in 1974 through the 1974 Rent (Amendment Act) the CG restricted councils from evicting defaulting tenants after accruing arrears in excess of three months); CG also declared that land had no value and therefore property tax was not collected on land; transfer of electricity distribution from councils to the Zambia Electricity Supply Corporation; and the withdrawal of long-term capital funding (UN-Habitat, 2012).

In 1991, after returning to multi-party politics the Local Administration Act 1980[63] was replaced by the Local Administration Act (Cap 281). This Act further reduced the revenue base but, increased expenditure responsibility to councils. For instance, the CG withdrew grants to Councils; the transfer of motor vehicle licensing functions from Councils to the Road Traffic Commission in 1993 whilst the responsibility to maintain the roads remained with councils; water supply and sanitation undertakings transferred from councils to commercial utilities in 2000. However, since 2001 several positive CG policies have come to play to help boast LG revenue base. For example, the CG reversed the management of bus stations and collection of market levies to councils through the Markets and Bus Stations Act No.7 of 2007; and resumed the disbursement of capital and recurrent grant to council (UN-Habitat, 2012). Currently, the responsibilities assigned to the local councils are shown in Table 10.

Measuring the level of decentralisation using intergovernmental transfers in the CG budget (Bahl and Martinez-Vazquez, 2008) one would infer that fiscal decentralisation has so far not been effective although some positive strides are now taking place. Figure 5 shows that IGT is below 1 percent of CG expenditure although it showed strong positive growth in 2010 and 2013. It shows that even though a lot of expenditure responsibilities are devolved to the council this is not accompanied by devolvement of revenue responsibilities (Figure 5). Furthermore, Mbolela (2010) estimated that total grants allocated to 3 main city councils, Lusaka, Ndola and Kitwe in 2009 was only enough to rehabilitate 18 Kilometre roads out of an estimated 1,130 kilometre roads or 1.6 percent of the total.

[63]The Local Administration Act of 1980 merged party and Government structures at District level. Under this reform the government established the following: At national level, the Ministry of Decentralisation was created in the Office of the Prime Minister; at Provincial level, the Member of Central Committee was head of administration; at District level, a District Council was established in every district in Zambia; at sub-District level, the District Council was supported by party structures of Ward, Branch and section Committees, Local Government elections were abolished and replaced by party elections (see the National Decentralisation Policy, revised edition, 2013)

Figure 5: Intergovernmental transfer to Central Government Expenditure



Source: Adapted from UN-Habitat but extended using data from the Government Budget, 2013 and 2014.

Table 11: Expenditure responsibility

Activities	**Central Government**	**State Enterprise**	**Local Government**
Drainage			√
Education	√		
Electricity		√	
Environment			√
Fire fighting			√
Health	√	√	√
Housing	√	√	√
Land Development	√		√
Market			√
Recreation facilities			√

Roads(District)			√
Roads (National)	√		
Sewage		√	
Solid waste			√
Street Lighting			√
Telephones		√	
Water supply	√	√	√

Source: Chitembo, 2002 in Habitat 2012

Administratively, however, there is clear lack of coordination of local government activities which inhibit any reform measures. There is also lack of clear lines of authority and reporting relationship between district, province and national authorities.[64] More importantly, given the resource constraints, local councils have to prioritise the aforementioned expenditure assignments; but the lack of forum for community participation in decision making on their local development activities at sub district levels undermines voluntary tax compliance. However, the ongoing decentralization policy measures require the formation of a Ward Development Committee (WDC) at the sub-district level, with full linkage to and participation of village and traditional councils where appropriate (Government of Zambia, 2013).

Property market

Deciding on what should be the property tax base should be driven by how developed the land and property markets are in a country or region. Several authors (Mikesell and Zorn, 2008; UN-HABITAT, 2011) have argued that current market value[65] is the preferred basis for the valuation standard in a modern property tax system. Such a market-derived standard makes strong assumptions about the existence and functioning of real estate markets. It assumes the following: capital markets also function reasonably well to finance real estate purchases; there are an adequate number and quality of supporting trades such as valuers

[64]With the enactment of the Local Administration Act (Cap281) positions of District Governor and District Secretary were abolished as a result there was no head of district administration to coordinate all sectors of government. The Town Clerk or District Council secretary coordinated sector Ministry activities on administrative arrangement (National Decentralisation Policy, 2013)

[65]Market value is defined as the price agreed to by a knowledgeable and willing buyer and a knowledgeable and willing seller, neither of whom are acting under duress.

(appraisers), estate agents, advertising outlets, etc., to assure the adequacy of information for buyers and sellers; property rights and titles are well-defined, well documented and marketable; and there are enough market transactions for all classes of property in various locations to be able to reliably establish an estimate of market value.[66] In Zambia, identifying available parcels is neither easy nor inexpensive, negotiations are difficult, and the high transfer taxes and administrative deficiencies make transfers slow and costly. However, in Lusaka and the Copper belt,[67] it seems relatively easy to identify a parcel of land and negotiate a market price with the holder but with high transfer tax, there is an incentive on the part of buyers and sellers to under declare the sales price, which has a tendency to weaken the database that is necessary for objective assessment of the annual property tax (Bahl, 2009). Zambia has a prospect of a growing property market since it expects a reduction in the cost of capital and debt in general, which will translate into lower cost for house production and mortgage finance from its current high cost [68](Kundu, 2013)

4.3 Property Tax Policy and Administration in Zambia

Within the broader political economy environment, reformers must clearly understand the key economic, policy and administration determinants of property taxation in order to design and implement appropriate, effective and sustainable intervention (Kelly, 2013). Kelly (2013) explains that the policy factors focus primarily on the structure of the tax base and tax rates which determine the legal capacity; whilst the administrative factors affect the realisation of the tax capacity through the tax base coverage, valuation and the collection ratios. Thus, property tax revenues are equal to the tax base multiplied by the tax rate, adjusted for the administrative ability to capture the properties on the tax rolls, estimate accurate property valuations, and assess and collect the tax liability. The relationship between these factors is known as the revenue identity because it identifies the amount of revenue that will actually be collected.

4.3.1 Tax Policy

- **Property tax rate**

Globally, rate setting varies with some jurisdictions levying a uniform single rate[69] whilst others apply differential rates across types or uses of property. Others levy the tax on a progressive rate, taxing higher value properties at a higher marginal percentage rate (Kelly, 2013). In Zambia, rating setting is guided by the Rating Act of 1997 and Rating Amendment Act of 1999 and provides that local authorities propose

[66] See UN-HABITAT 2011: Land and Property Tax, a Policy Guide.

[67] There are registered estate agents in these cities who often display the availability of land parcel for transaction

[68]The cheapest newly built house in Zambia by a formal developer or contractor, was estimated at US$70,000 in 2012. In 2013, the estimated price fell marginally to US$68,363. A peer-to-peer comparison with other countries shows that house prices in Zambia are extremely high (Kundu, 2013).

[69]Applying a uniform legal rate on all properties allows the property tax liability to vary only by the differences in the property valuation. In terms of administration, a uniform rate simplifies and reduces discretion during the tax liability assessment property process. It is also argued that rate differentiation is a poor substitute for good valuation, thus for simplicity and to minimize complexity in administration and to encourage compliance good practice requires a single rate setting (Bahl, 2009). However, the main downside is that it is not fair. Higher tax rates on commercial and industrial properties are often justified as “fair” based on the ability –to-pay principle (Kelly, 2013).

differential rates with residential zones having different rates and commercial as well as industrial zones another rate. The local authority determines the rates,[70] known as poundage upon resolution and approval of such a rate by the lands tribunal. Determining the levy on properties is actually based and determined by the budget provisions. Many local authorities usually identify property rates as an eminent alternative for their deficit, provided the amount they propose to collect from the rates does not exceed the deficit indicated in their budget. Lusaka's current residential property rates vary between 0.75 and 1 percent, whereas commercial properties attract 1.5 percent. In Kitwe residential property attracts 0.38 percent, 1.1 percent for commercial and industrial properties whilst mining, plants and machinery as well as power transmission equipment attract 1.76 percent [Akakandele, (2012)].[71]

- **Property Tax Base determination**

Countries have different property tax bases defined in their legislations. Table 12 provides diversity across regions in Property Tax base determination.

Table 12: Property Tax base in different regions

Region	No. of	Land	Capital	Land and	Improvement	Annual	Area	Flat
Africa	25	1	8	3	4	7	11	6
Caribbean	13	4	4	2	0	8	5	0
Asia	24	2	6	2	0	11	11	0
Oceania	7	6	2	0	0	4	0	0
Western Europe	13	0	9	0	0	6	0	0
Eastern Europe	20	1	6	0	0	0	15	0
Central and south America	16	2	14	1	0	1	0	0
North America	3	0	3	0	0	0	0	0
Total	121	16	52	8	4	37	42	6

Source: McCluskey, Bell and Lim, 2011 in: Norregaard, 2013

[70]Since the property tax is usually a local government revenue source, the accountability of elected local officials can be enhanced if the responsibility for rate setting is placed at the local government level (Bahl,, 2009)
[71]These rates have remained static since 2005.

Table 12 shows that 52 countries have some form of capital value base, of which countries in Central and South America seems to have a dominant use of such tax base; a relatively widespread use of area-based approaches among African, Asian, and transition countries; and 37countries use annual rental value as tax base (particularly countries in Asia); 16 have some form of unimproved value base (site value or land value). Very few countries, all in Africa, use improvement value only.

Box 2. Property Valuation Systems[72]

Rental value systems: Several countries, particularly British Colonies, tax the annual rental value of properties. The tax base is the rent that can be reasonably expected in a fair market transaction. In practical terms however, *serious challenges: a scarcity of data on actual rent payments make base assessment difficult; some properties are rarely in the rental market (owner-occupied housing, industrial property, vacant land); and some countries operate rent control systems. Estimates of the base may rely on rent surveys for different areas, often combined with expert judgment; estimated capital values of the property (from sales data or based on construction costs), converted to rental equivalent; or estimated (net) profit of the property. Rental value typically reflect the present use of the property, and may, therefore, not reflect best alternative use of the property—with the lack of incentives that entails.*

Capital value systems *define the base as the market value of the property (land and improvements or structures) in an open market. This is the system used in most OECD and Latin American countries, and there seems to be a shift towards this method. Some countries use a separate valuation for land and buildings (Botswana, some Brazilian cities), whilst others base the assessment on the total value of the property (Cyprus, South Africa). Whist this method of valuation seemingly tends to eliminate conceptual problems plaguing rental value system such as defining the base in cases of vacant land, rent controlled properties, and determining the taxable value for land used for non-residential purpose, it has critical problems such as scarcity of data reflecting market transactions and/or under-declaration of such prices (for example, due to high property transfer taxes .. Valuations may be provided by expert assessors, who are often in short supply, and administrative costs can be high.*

Land (or site) value systems: *tax base is the market value of land alone, and is used in a variety of countries (Australia, New Zealand, Denmark, Estonia, Jamaica, and Kenya). Apart from raising revenue, it could be argued that the land value tax provides the strongest incentive for the most efficient use of land, although the nominal tax rate must be higher to yield a given amount of revenue due to the smaller base. It has been held that this tax also implies lower administrative costs than a capital value tax. The system is also plagued by the absence of adequate, reliable data on transactions values for land transfer. Declared transaction values supplied by valuation departments usually are supplemented with expert judgment (e.g. bank mortgage information and real estate listings).*

Area-based systems *comprise the simplest methods by taxing each parcel at a specific rate per area unit of land and per area unit of structures. It is used in many Central and Eastern European countries and a number of developing countries, particularly Africa. It is a simple, transparent, and fairly easily administered system, which allows imposition even in countries or localities with no—or only an embryonic—property market. The system ranges from a 'pure' form based only on physical area, to hybrid forms that aim to better proxy capital value by using also other inputs such as zoning and indicators of quality (as used in a variety of forms in, for example, Serbia, Poland, Chile, and Indonesia), which are more complicated and often involves an important measure of judgment. Other disadvantages include that it is generally not considered a fair tax, owing to potentially sharp differences in effective tax rates, and its buoyancy may be limited since it may not trace well market price developments.*

[72]See Bahl, 2009 for detailed discussion of tax base determination

In Zambia, the basis for valuing property in respect of Property Tax is the capital value of all land and improvement separately as if sold in the open market. The Zambian Rating Act of 1997 as amended in 1999 provides that all property within a rateable area, whether or not reserved for government use which is alienated on statutory leasehold tenure or included in a statutory housing area is rateable. Of importance is the challenge that the CG policies influences the tax base despite being provided for by the Rating Act. For instance the Act provides that agricultural land and buildings not in use are rateable, however the CG policy, in a bid to fight hunger, has exempted agricultural properties from the tax base (Akakandele, 2012).

Zambia recognises two types of tenures, customary and leasehold. Under customary tenure arrangements, rural residents are given rights to customary lands based on their membership within a community. Customary tenure governs access to reserves and trust land. Under leasehold all land (i.e. 99 years) is vested in the president which can be leased to individuals. In Zambia, therefore, all land belongs to the state and operates a land tenure system based on leasehold as opposed to freehold. Thus, the property taxpayer is the leaseholder or the occupier.

Exemptions and Relief

Kelly (2013) notes that defining what will not be included in the tax base i.e. the exemptions and related tax expenditure is a very critical policy decision. Exemptions might be divided into four classes[73]. First, exemption based on international convention such as foreign embassies or by virtue of merit use of land (e.g. schools and churches).[74] Secondly, exemptions given to protect low-income families, often done by excluding low valued property from property tax; third owners occupier exemption, and fourth exemption of government-owned properties, and properties occupied by non-profit organisations. Some countries exempt government properties used for government purposes, others explicitly tax government property either at full rate (South Africa) or at reduced differential rates (Malawi with a 50% reduction and Namibia with a 20% reduction)[75]. In Zambia, the Rating Act gives a list of those properties that are exempt from property rates and these include:

- Property in the occupation of the President in the President's capacity as Head of State;
- Property used wholly for the operational purposes of any public utility undertaking concerned with the storage, processing or distribution of public water supplies, or the collection, treatment or disposal or water bone sewerage;
- Property used primarily for public worship, including property used for residential purposes by ministers of a church and nuns whether or not that property is in the same curtilage as the church, but excluding property used for social and commercial purposes in connection with places of public worship;

[73] See Bahl, 2009 for detailed discussion of exemptions and relief.
[74] Exemption of diplomatic property based on Vienna Convention on Diplomatic Relations, properties owned by religious institutions but limited to places of worship, Education and health properties are very common across countries.
[75] See Kelly, 2013

- Property owned and occupied by registered charities; training centres intended for capacity building for youths, homeless and persons with disabilities;
- Public libraries and public museums;
- Cemeteries and crematoria;
- Military aerodromes, including the buildings on them and their curtilage;
- Property comprising land used solely by a full-time educational institution, or for sporting purposes by that educational institution;
- Premises of a mission, which are owned by a mission and are the residence of the head of a mission; or chancery of that mission;

4.3.2 Property Tax Administration

One critical administrative decision is who should be mandated with property tax administration, particularly assessment and collection, should it be the Revenue Authority or the Local Councils? In Macedonia, for instance, property tax was collected by the central government i.e. the Directorate for Public Revenues and then transferred to municipalities in up until 2005. However, the responsibility for the collection of the property tax was transferred to the municipalities resulting to an increase in revenue from 3 percent in 2006 to 14 percent in 2012. According to Mehmet (2014)the CG was not interested in collecting the tax and that affected the operation of the councils. Similarly, Tanzania Revenue Authority in 2008 started collecting property taxes but has since devolved that function to the Municipality. Also in Indonesia (Law 28, 2009) the CG devolved rural and urban property tax to 500+ LGs as an own source revenue over a three year period to January 2014. The literature is very limited in support of CG collecting property tax and is mostly justified on the basis that LGs have weak capacity to administer the tax.[76]

Dillinger (1990) however notes that the challenge in property tax reform is often whether it is easier to solve the indifference at the CG level to collect the property tax for the LGs or to overcome the administrative and capacity constraints at the LG level. Where property tax is a local revenue source, the higher level government may not have enough of a vested interest to value and do aggressive collection, and the case becomes very strong for local government responsibility (Bahl, 2009). Thus, building the capacity of Local councils to increase and sustain valuation, collection and enforcement of property tax is a necessary first step to building a revenue productive property tax (Bahl, 2009). Notwithstanding, for rural councils it can be comparatively advantageous for them to leave certain responsibilities, particularly maintenance and upgrading of the cadastre[77] and valuation to the Central Government in the short-and medium–term. All other administrative functions, especially collection of property tax should be left to the local councils in

[76]Effective administration of the PT requires too much local knowledge of changing land occupancy and use to be effectively administered by the central government.

[77]A cadastre is an official property registry.

Zambia. However, central government can assist in the computerisation and capacity building programmes for the councils.

Added to the decision on the layer of government to administer Property Tax, there are four critical components in property tax administration which are: (1) discovery/identification of all properties, (ii) keeping the records so that the property roll can be continuously updated, (iii) valuation and revaluation, and (iv) collections, enforcement and appeals (Bahl, 2009).

Discovery and updating of property roll

The first and very important step in property tax administration is ensuring that all land and all improvements are on the property roll, and that a system is in place to keep the roll updated (Bahl, 2009).Whilst an indispensable asset for local property tax collection, the establishment and maintenance of such surveys has long been recognised as a major barrier to effective taxation across low-income countries (Kelly 2000). In Zambia, identification and discovery of property is done by GVD on behalf of councils. However, the process could be described as spotty thus resulting to most property, particularly new improvements, being excluded from the roll.[78] Furthermore, the current cadastre[79] in Zambia is outdated and requires improvements that will position it in line with current international practice and technological advancement[80] [Chileshe and Shamaoma (2014)]. To overcome the tendency of such efforts to be both very costly and difficult to sustain over time, there is need for a local recruitment of valuation officers in all city councils who would be trained to perform the identification and assessment of properties, including the assignment of street names, house numbers and land parcels. Portable Global Positioning System (GPS) devices could be used to identify the location of different properties, with the potential to then transform these GPS coordinates into comprehensive local property maps as part of a broader Geographic Information System (GIS) and tax mapping. Meanwhile, all of the relevant information can be recorded using relatively straightforward database software that could tabulate the physical description of the property, assessment, tax liabilities, track tax compliance, and tenure and ownership information. There is need to also train locally-recruited valuation officers to operate the software. Of course, the role of technical assistance from development partners, inter-departmental coordination and a significant investment by the central government are very critical in achieving this stage of property tax administration.

[78]As at the time of the field research, councils could not readily ascertain the number of property registered as against the number on the valuation role, thus it is difficult to ascertain the coverage of the property register. Furthermore the register is not updated.

[79]Cadastre is used in generic terms to refer to all land records, ownership records, and property tax information.

[80]The hard copy and centralized information storage system has been outpaced and limits the medium of delivery to clients as it can only be accessed by physically visiting the archive centres, which are also heavily centralised. Moreover, due to poor storage facilities and wear and tear over time most old records are mutilated, and finally the increasing number of survey records has exceeded the capacity of existing fixed storage room which leads to misfiling and difficulty in finding the required information (Chileshe and shamaoma, 2014).

Valuation and revaluation of properties in Zambia

The Government Valuation Department (GVD) prepares the valuation rolls for small towns and facilitates the contracting of private valuers in larger towns. Lusaka and other main cities have their own valuation departments, which are understaffed but may contract with private valuers or with the GVD to help with major valuation exercise. According to the Rating Act 1997 whoever is appointed to undertake the valuation exercise must be registered and approved by the Minister in charge of Local Government.

The valuation cycle is every 5 years or such a longer period as the minister may approve. The law however provides for supplementary valuation rolls whenever new construction occurs, or for any properties inadvertently left out of the five-year valuation. However, in practice, supplementary valuation is spotty; owners who escaped the five-year valuation could well be overlooked for five years. In the Lusaka City Council, the last general revaluation exercise was carried out in 1995 where 24,570 properties were captured with the total rateable value of K1, 100,000.[81] In an effort to broaden the Councils revenue base, the department embarked on a revaluation exercise in 2007 for all rateable properties within the city of Lusaka where 45,312 properties were captured with the total rateable value of K18, 443,221. Therefore, the number of properties from 1995 Valuation Roll represents 79.6% increase over the period of 15 years with an increase of more than 1400% in the total rateable Value for the same period. A supplementary valuation was done in 2012 as provided for in section 10 of the Rating Act No 12 of 1997 (as amended) of the laws of Zambia. The purpose of this exercise was to capture all rateable properties which were omitted from the 2007 Main Valuation Roll; and improvements such as new structures being erected, completed, altered or demolished since the completion of 2007 main Valuation Roll. The second supplementary roll was being compiled and captured 9,406 properties with a total rateable value of K3, 494,113.[82] Kitwe valuation exercise was done in 2008. The districts councils have overdue valuation averaging 9 years.

The system for approving the valuation roll is complicated and cumbersome and has proved to be technically impossible to implement (See Box 3). Given that there are now 105 councils that must be revalued every five years (i.e. about 21 valuations per year) with about 50 registered valuation surveyors five year valuation period is, in reality not possible, thus several or all councils have outdated valuation rolls. Thus, there is need for a capacity building programmes to be put in place to address this problem. Another, valuation challenge in Zambia is the absence of reliable data on the capital value in an open market due to the high transfer tax levied. The need for a gradual reduction of property transfers tax rate and the introduction of CGT on real property will at least remove the incentive for under-declaration and provide a self-checking mechanism for declaration (Bahl, 2009).

[81] Rebased Kwacha.
[82] Lusaka City Council web page.

Box 3: Valuation process in Zambia[83]

The valuation process in Zambia starts with the rating authority (who happens to be the local authority or Council), in which they appoint a valuation surveyor, who shall be responsible for the preparation of a main roll. The valuation surveyor could either be a government valuer or a private valuer. Note that the council, according to the laws of Zambia, must appoint a valuation surveyor in his individual capacity, despite him or her being an officer representing the Government Valuation Department. According to the Rating Act of 1997, he shall be a person who is registered, under the Valuation Surveyors' Act, as a valuation surveyor and may be a full time officer of the rating authority; a valuation surveyor engaged in private practice; or an officer of the Government Valuation Department.

The second step in the rating process is the submission of the name of the appointed valuation surveyor to the Minister (Local Government and Housing) for approval before he could commence with the job. It must be noted moreover that the appointment of a valuation surveyor other than an officer of the Government Valuation Department shall be subject to the regulations made under the Zambia National Tender Board Act. Subject to any directions that maybe given by the Minister as the appointment of a valuation surveyor. The rating authority is responsible for all fees and expenses incurred by the valuation surveyor in respect of the surveyor's duties under the Act. Upon approval by the minister, the valuation surveyor or any other person assisting him would start the work, by ensuring among other things: (i) go on site and start the inspections, surveys, measurements and valuations; (ii) Preparing or checking of entries in the main roll or a supplementary roll; preparing or checking of any rate, entered into, or upon, any rateable property at any reasonable hour in the day-time and survey or inspect that property; serve a notice by delivery or prepaid registered post on leaseholder or any person in apparent occupation or charge of any rateable property requiring the leaseholder or that person to make a return in the form; Put to a leaseholder or any person in apparent occupation or charge of any rateable property questions on such matters as may be necessary to enable the valuation surveyor to correctly value that property.

Appeals

An essential element in public acceptance of LPT fairness is the appeals process. Every tax system at any level of government can make mistakes. Information is entered into a computer incorrectly or it becomes outdated (UN-HABITAT, 2011). This is the task of the Rating valuation Tribunal, which deals with appeals about council property tax and non-domestic (business) rates. It looks at appeals which arise as a result of being dissatisfied with the rates indicated in either the main or supplementary valuation roll. A person aggrieved by an award made by the Tribunal may appeal to the High Court, provided it is made within thirty days from the date of the Tribunal's decision. Note that a person who has appealed to the High Court against a decision of the Tribunal shall not be liable to pay rates until the appeal is heard by the High Court and the High Court finds against that person. The Tribunal has relatively been more effective in issues of

[83]See Akakandelwa, A. 2012 for details.

rateable values than are the mechanisms for resolving most other conflicts regarding land.

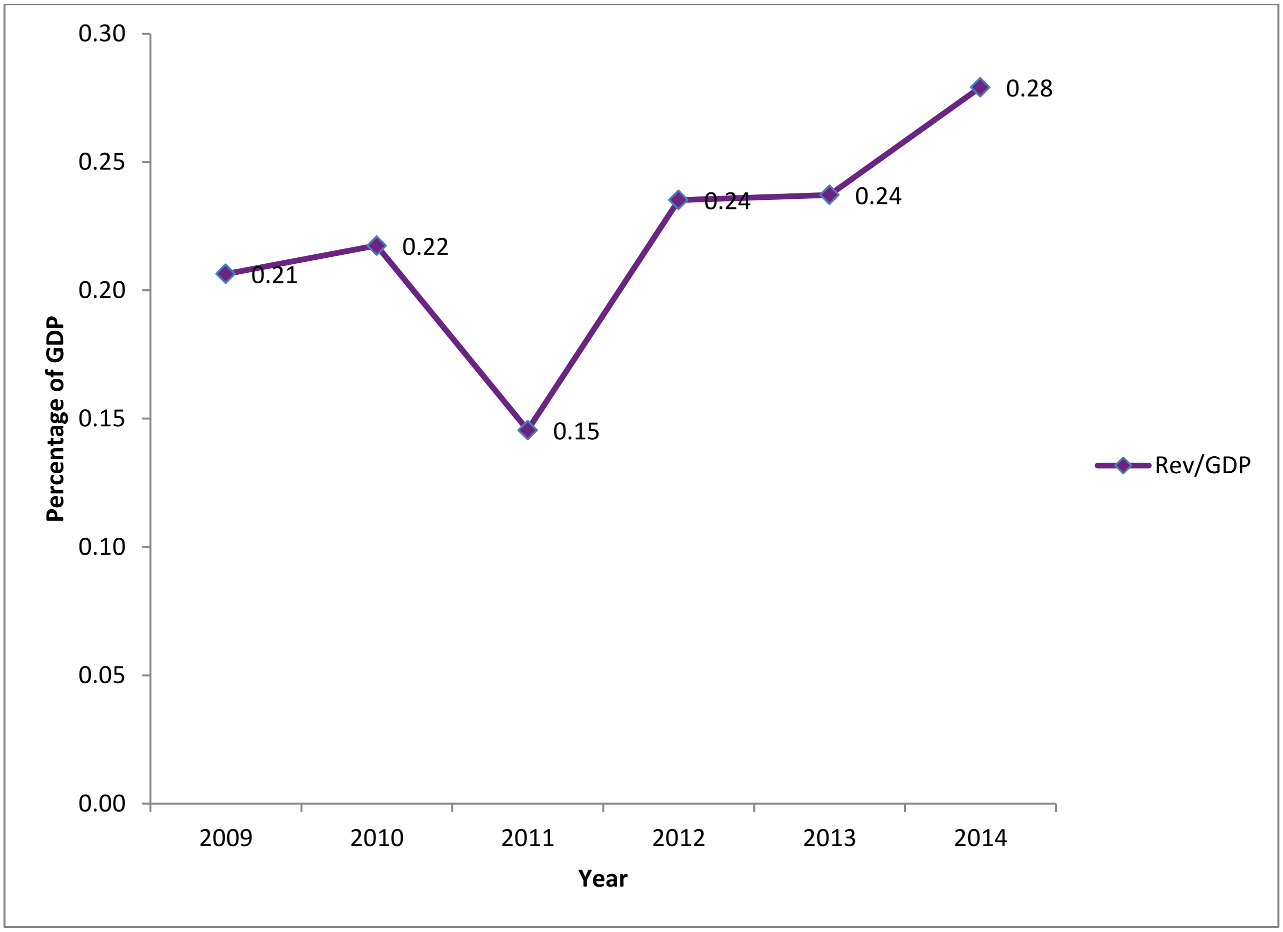
- **Collection and enforcement**

In principle collecting and enforcing property tax should be easier than other local revenue sources as the taxable entity cannot move, the government generally knows the location of the property owner and has direct access to the property in case of non-compliance. However, in practice collection and enforcement in most of the city councils has been very weak, in part due to poor record keeping and capacity, but primarily due to the politicisation of the system. Most large property owners, from whom the majority of revenue should be collected, are wealthy and have strong connections with elites, meaning that court action against defaulters is exceptionally rare and rarely successful even when implemented. This is consistent with experience elsewhere in low-income countries, where strong ties between large landowners and political elites have been widely cited as the primary explanation for weak property tax collection (e.g. Bird 1974. 1991).

Furthermore, the combination of an old value base and static rate levy meant that not only was the revenue inflation inelastic but also, in excluding property developments in the intervening 11 years, provided an unofficial "tax break" for these new properties. However, without the ultimate tax collection, the property tax system will not be able to achieve the revenue, equity or efficiency goals.

In Zambia, local government revenues are made up of local taxes i.e., property rates and personal levies; user fees; administrative charges/permits or licenses and grants for operational needs and borrowing, through central government and capital grants for capital developments. Overall, Figure 6 shows that local government revenues, though, have shown a positive trend since 2011 have hovered around 0.2 percent of GDP which is lower than 0.6 percent of GDP for only property tax for developing countries, 0.68 percent for transition economies and far below 2.12 percent of GDP for OECD countries in the early 2000s.Whilst data deficiencies preclude accurate estimates of the potential role of Property Tax in Zambia, it would not seem unrealistic to target a revenue raising potential of about 0.6 -1 percent of GDP over the next 5-10 years for the country.

Figure 6: Local Government Revenue as percentage of GDP in Zambia



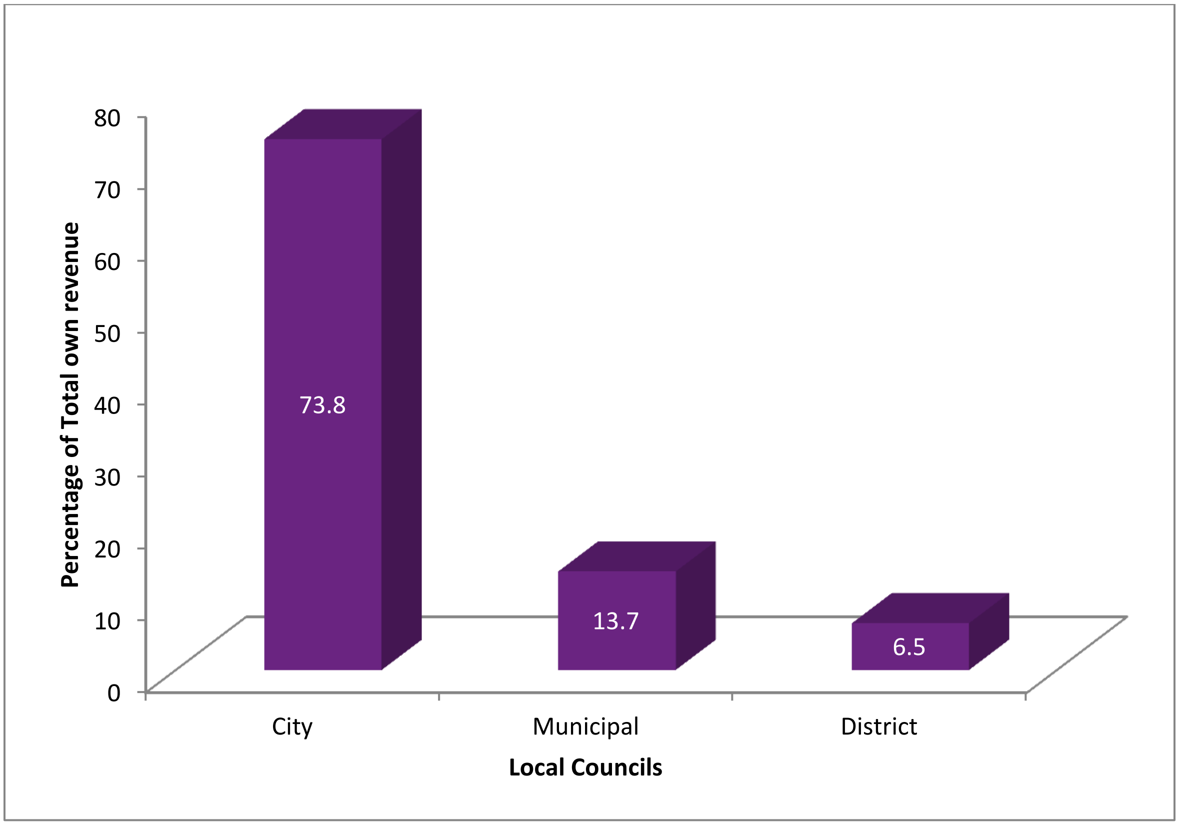
Source: Computed using data from Field exercise conducted by project research assistants in October-November, 2014.

Figure 7 however shows that property tax revenue is the top ranked source of revenue for most major local authorities in Zambia , accounting for 73.8 percent of total own revenue for city councils, 13.7 percent for municipal councils and only 6.5 percent for district councils between 2006 and 2008.[84] Figure 8 shows that overall, property tax accounts for largest pie (60.9%) of LG revenue, followed by user charges (23.2%); business levies[85] (11.8%).

[84]The paucity of disaggregated data in the recent year's limit this analysis to 2006-2008 data, however there are no indications that this composition has changed significantly.

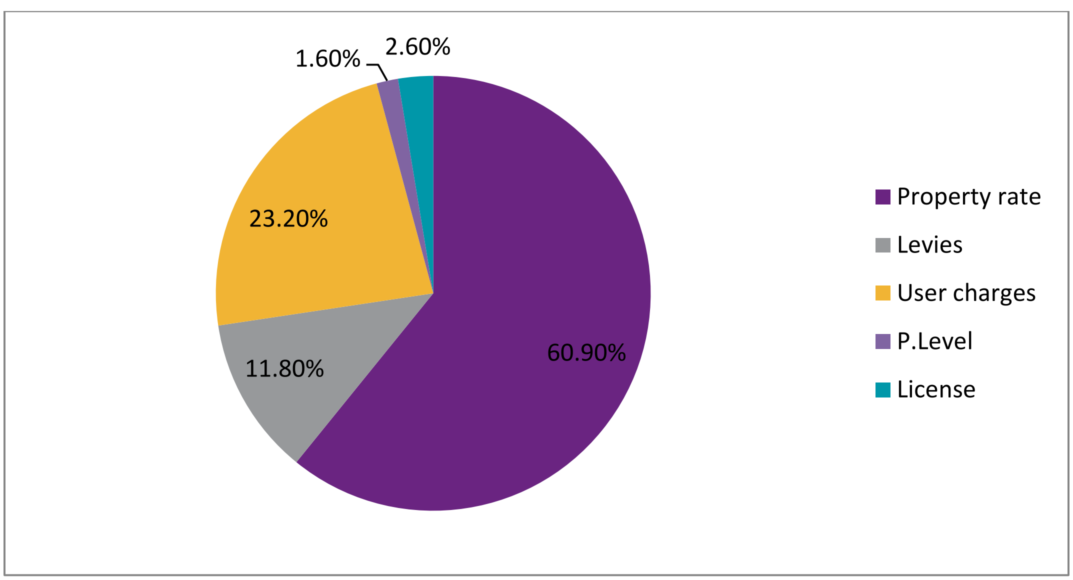
[85]Business levies include levies on agricultural produce, on collection of natural resources (caterpillar and sand levies) bicycle levies in the district, truck levy and some types of commercial infrastructure (cellular phone communication masts and ZESCO electricity poles)

Figure 7: Relevance of property tax in local councils in Zambia



Source: Computed using data from UN-Habitat, 2012 and Mbolela 2010

Figure 8: Composition of LG revenue between 2006 and 2008



Source: Computed using data from UN-Habitat, 2012 and Mbolela 2010

The low collection is attributed to a combination of political and administrative reasons thus the government should implement policy and administrative changes to encourage voluntary compliance and to take decisive action to enforce against cases of non-compliance. Administrative challenges include the late or non-delivery of demand notices, and weak Enforcement. There are no penalties for late payment, no indexing for inflation, or interest on arrears. The law mandating the levy of penalties on tardy payments appears drastic enough. The law mandates councils to obtain a court order for distraint, which entitles it to seize a building and remove enough furniture or other contents to cover back taxes. In practice, however, there is no evidence of such enforcement.[86] Such enforcement strategy would require strong political will which is lacking at present in the property tax administration in Zambia.

Whilst a holistic approach is needed for property tax reform (which includes identification of properties, valuation, record keeping) a collection-led strategy is required given the capacity constraint in valuation[87] particularly in the short and medium-term. This will require effective outreach, transparency and service delivery to build the sustainable political foundation necessary to confront resistance by large property owners in particular. This can make the difference between short-term revenue gains and long-term improvements. This provides some support for the notion that strengthening local government revenue collection can, indeed, be an entry point for catalysing broader governance improvements (Jibao and Prichard 2013).

Main issues

1. Weak coordination of fiscal decentralisation, and no information on assessment and collection ratios, and annual tax expenditure.
2. Weak capacity of councils to administer property tax, particularly to value property and collect rates. There are about 50 valuers to carry out revaluation of 105 local governments once every five years which is very challenging. However, given that property tax is a local revenue source, the higher level government may not have enough of a vested interest to value and do aggressive collection of property tax revenue.
3. Outdated cadastre and poor recording keeping in councils.
4. The under-utilisation of property tax instrument on immovable property to generate revenue thus local councils continue to rely heavily on intergovernmental transfers, which undermine their autonomy. There are also issues relating to poor accountability and service delivery in local council areas, which undermines voluntary compliance.
5. Expenditure responsibilities devolved but revenue assignments not fully devolved

[86]Research Assistants that conducted the Field Interview
[87]Relying on a one-time valuation roll creation exercise, even by private sector, may be expedient but not necessarily useful unless institutional capacity is simultaneously developed to ensure that the coverage and valuation ratios can be maintained over time and used to generate improved revenue (Kelly, 2013).

Recommendations

1. Institute a fiscal decentralisation commission that will be responsible for facilitating reform measures in the local councils, but particularly the commission should be charged with the responsibility of knowledge generation which is critical for property tax administration. This will include carry out studies on annual sales ratio, collection rate, annual tax expenditure for the property tax to track the cost of exemptions, do an annual breakdown of revenue collection by councils and by sub-categories, and prepare an annual delinquent list classified by status (collectible or bad debts). The said commission should have capacity to monitor activities devolved to councils and be in position to rank these councils into performing and non-performing councils based on agreed indicators. Finally, the Commission should provide information that will guide expenditure sharing among councils.
2. Building the capacity of Local councils to increase and sustain valuation, collection and enforcement of property tax is very critical. This involves staffing and training of personnel in capital value techniques, particularly for the four cities that account for 74% of property taxes. The 101 municipal and district local councils, which now raise much less and have much capacity challenges, might be converted to an area based system with notional determination of a value per square foot. Whilst this is a step back from good property tax practice, it will be more manageable by these smaller councils in the short and medium term.
3. Adequate and updated information on the tax base is critical for the administration of any tax handle, thus tracking all new improvements to properties, as well as changes in ownership and sub-division of properties is very necessary for property tax administration. However, information generation could be expensive. To overcome the tendency of such efforts to be both very costly and difficult to sustain over time, there is need for a local recruitment of valuation officers in all city councils who would be trained to perform the identification and assessment of properties, including the assignment of street names, house numbers and land parcels. Portable Global Positioning System (GPS) devices could be used to identify the location of different properties, with the potential to then transform these GPS coordinates into comprehensive local property maps as part of a broader Geographic Information System (GIS) and tax mapping. Meanwhile, all of the relevant information can be recorded using relatively straightforward database software that could tabulate the physical description of the property, assessment, tax liabilities, track tax compliance, and tenure and ownership information. Furthermore, there is need to link all systems for identifying land values and tax payment. The introduction of a unique parcel identification number could be a starting point.
4. Whilst a holistic approach is needed for property tax reform (which includes identification of properties, valuation, record keeping), which for the case of Zambia would require a long-term reform project, reform could begin with a collection-led strategy in the short and medium-term. Specifically:
   - Embark on effective outreach, transparency and service delivery to build the sustainable political foundation necessary to confront resistance by large property owners in particular. Instituting an interacting radio and television discussion programmes “Council Hours” where they could articulate

all their development activities, and report on all revenues received can be starting point.

- Strong political will at the local government level is required to enforce penalties in the law. Publishing the names of delinquent taxpayers in newspapers and local radios could be a starting point for effective enforcement.
- Local Councils, particularly City councils and some extent municipal councils to signed MOU with other valued service providers such as the Electricity Corporation to demand receipt for payment of property tax before allowed paying electricity bills. Of course this may require a cost on the service providers, such as adjusted in information in their software or system, which could be negotiated by the City Councils.
- Increase the LG revenue base by transferring the taxation of movable property such as vehicle licenses to Local councils. Or a revenue sharing arrangement between RTSA and Local councils instituted with respect to proceeds from vehicle licensing.

5. All expenditure assignment should have a corresponding revenue assignment. Thus there is need to build the revenue generating capacity of LG as well as increased transfers from CG to ensure efficient service delivery which is critical for voluntary tax compliance.
6. Strong political will at the central government level is required to grant autonomy to LG.

5.0 Conclusion

This study explores designs an appropriate reform strategy that will aid the Zambia Revenue Authority (ZRA) in bringing the reform needed to increase revenues from capital gains taxes, property transfer taxes and the taxation of immovable property such that revenues contribute significantly to total revenues of both central and local governments and that of GDP. The study argues that by not taxing most capital gains, Zambia is unusual amongst several of its trading partners and among few countries in SADC not taxing capital gains, which has resulted to tax base erosion. It notes that given the present local property tax are 0.13 percent of GDP and that from the property transfer tax is 0.69 percent, in the short- and medium -term capital gains tax would seem to offer the best possibility of narrowing the domestic revenue gap in Zambia. In that respect the study recommends full implementation of CGT starting with the design and drafting of legislation and policy guiding lines that address issue of rate, base, coverage determination and administrative procedures generally. On the implementation of property taxation at sub-national level, the study identifies weak capacity among councils as a major challenge. However, it notes that given property tax is a local revenue source, the higher level government may not have enough of a vested interest to value and do aggressive collection, and the case becomes very strong for local government responsibility. Thus, building the capacity of local councils to increase and sustain valuation, collection, and enforcement of property tax is very critical. The study also recommended a far reaching change in the property tax policy and administration system. It suggests the need to covert bases for valuation from capital value base to area based system for the 101 municipal and district councils with more capacity challenges and currently contribute less than 30% of property tax. The study, however, notes that this is a step back from good property tax practice but one that would be more manageable by these smaller councils.

Annex 1: Capital gains tax for natural persons in SADC countries

COUNTRY	CAPITAL GAINS TAX BASE/NATURAL PERSON	TAX RATE	Inclusion Rate
Angola	This is derived from the disposal of business assets of self-employed individuals	35% like corporate income tax	
Botswana	This is gains derived from sales of immovable capital asset and from sales of corporate shares and debentures	Progressive 0-25%	75%
Congo, Dem. Rep. of	Gains realized by persons subject to corporate tax	0-40% of annual income	
Lesotho	Derived from the sales of business and investment assets	22-35% of taxable income	
Mauritius	Generally not taxable	15% of individual tax liability	
Mauritania	Realized in the performance of personal, commercial and agricultural activities	5-33% of proportional and annual general	
Malawi	Derived from individual income tax	Included in assessable income at normal income tax at 0-30%	
Mozambique	Subject to withholding tax at a rate of 20%	included in annual taxable income at a rate of 10-32%	
Namibia	Generally tax-exempt with effect 1st March 2012, it is derived on the sales of shares in a mineral mining or exploration license and also on the sales of that property	Included in all individual income tax at a rate 0-37%	
Seychelles	Not applicable		
South Africa	An **asset** defined as widely as possible and includes any property of whatever nature and any interest therein. CGT applies to all assets of a person disposed of on or after 1 October 2001 (valuation date), regardless of whether the asset was acquired by the person before, on or after that date	33.3	
Swaziland	Not applicable	Including personal income tax rate of 20-33%	

Tanzania	Derived from the sales of real property by individuals not engaged in business at a rate of 30%	0-30% of monthly income	
Zambia	Not applicable		
Zimbabwe	Derived from sales of marketable securities on the stock exchange market and also include unlisted securities and real property	Included annual taxable income at 0-45%	

Annex 2: SADC Corporation/companies

Country	Rate of CGT	TAX BASE	INCLUSIVE RATE	CORPORATE RATE
Angola	35% 10%	Fixed Asset shares		35%
Botswana	22%	Sale of capital assets of a business and corporate shares and debentures of private companies	75% for shares	22%
Congo, Democratic Republic of	35%	Capital gains and depreciation that are realized and either realized or expressed in the accounts or inventories are included in profit and are subject to tax at a rate of 35%		35%
Lesotho	25%	Capital gains treated as ordinary income and subject to tax at the regular corporate income tax rate	Additional tax of 3%	25%
Mauritius		Companies must set up a corporate social responsibility(CRS) fund equal to 2% of chargeable income for the preceding year if the intend to take approved program		15%
Mauritania	25% but could be deferred if new assets are acquired	Disposal of asset		25%
Swaziland				27.5%
Tanzania	Capital gains are treated as business income for companies and are taxed at the regular corporate income tax rate			30%

Zambia	Capital gain are not subject to tax			A 20% final withholding tax is imposed on royalties paid to non-residents
Zimbabwe	20%		An AIDS levy of 3% is imposed on tax payable	25% but residents are subject to income tax at a rate of 20%
Namibia	Not imposed in Namibia			33% also corporate income tax is levied primarily on income from Namibia
Seychelles	Not taxable in Seychelles			25%
Mozambique	Capital gains derived by non-residence entities are taxable at the rate of 32%			32%
Malawi	Pending enactment of the capital gain tax Act CG derived by companies are included in taxable income and are subject to tax at the applicable corporate income tax rate			35%

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