MOIRA MUKUKA

LEGAL PRACTITIONERS

# Budget 2023

# Public Private Partnerships Incentivised Ahead of Regulatory Reforms

The Minister of Finance in the 2023 budget delivered on 30 September, has announced targeted tax incentives to catalyse increased private sector participation in public infrastructure development through Public Private Partnerships ("PPPs") ahead of the proposed repeal and replacement of the Zambian PPP Act.

With limited fiscal space for government spending on infrastructure, the proposed fiscal incentives present an opportunity for private players to participate in the development of public infrastructure through PPPs.

Infrastructure underpins the four strategic sectors identified to drive the growth of the economy these being mining, agriculture, manufacturing and tourism. Additionally, the bold ambition in the areas of human and social development, means that social infrastructure such as schools and medical facilities present opportunities for private finance. The Minister of Finance in his budget speech also identified infrastructure gaps in areas such as roads, railways, energy and schools. For road infrastructure development, the following roads will be developed through PPP financing: Lusaka-Ndola dual carriage way; Chingola-Solwezi; Ndola-Mufulira; Chingola-Kasumbalesa; and the Lumwana-Kambimba roads.

The Minister announced the proposed development of farm blocks in the agriculture sector, with each farm block expected to measure between 50,000 and 100,000 hectares. These farm blocks will necessitate supporting infrastructure such as roads, railways, cold storage facilities, and so on, that can be financed and developed through PPPs.

In terms of mining, the targeted annual 3 million metric tonnes of mineral production over the next nine years will require supporting infrastructure for new mines that have been and will be opened, as well as for the increased levels of mineral exploration. Road and railway infrastructure are at the core of mining and exploration to ensure improved access to frontier exploration areas, and the transportation of mineral products from existing and new mines, will be required.

The government has also set targets for the construction of educational facilities such as schools and polytechnics, indicating a need for such facilities and an opportunity for private sector developers. Infrastructure development in the health sector has also been identified with a specific need for district hospitals and rural health posts.

Other sectors with PPP potential in Zambia are water and sanitation. In July 2022, Zambia launched the Zambia Water Investment Programme whose success is hinged on private sector participation through PPPs. This programme will leverage USD 5.75 billion for water security investment. The Minister stated that the government intends to stimulate economic growth and generate enough tax revenue to fund infrastructure and social services. The demand for infrastructure development indicates an opportunity for private sector participation, subject to feasibility studies and assessments of project viability.

To attract private finance for the development of public infrastructure under the various PPP models, the following tax breaks have been proposed to take effect on January 1, 2023:

(a) a 20% tax break for the first five years that the project company is profitable;

(b) accelerated straight-line wear and tear allowance of up to 100% for implements, machinery, and plant acquired and used by the PPP project;

(c) exemption from VAT and customs duty on the importation of plan, machinery, and equipment purchased for use on a PPP project; and

(d) permit PPP projects to claim input VAT before beginning commercial operations.

These proposed tax breaks will be backed by changes to existing legislation or the passing of specific statutory instruments outlining how the changes will be implemented and enjoyed by concessionaires.

Keep an eye out for our analysis of the current PPP legislative framework, the various PPP models, and the pitfalls that project developers and lenders should be aware of, as well as how to avoid them.

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