

FINANCE ACT, 2017
ARRANGEMENT OF SECTIONS

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Note by Veritas
This Act was gazetted
on 23 March 2017

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ZIMBABWE

ACT

To make further provision for the revenues and public funds of Zimbabwe and to provide for matters connected therewith or incidental thereto.

ENACTED by the Parliament and the President of Zimbabwe.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Finance Act, 2017.

PART II

INCOME TAX

Amendments to Chapter I of Finance Act [Chapter 23:04]

2 Amendment of section 14 of Cap. 23:04

Section 14 ("Income tax for periods of assessment after 1.4.88") (2) of the Finance Act [Chapter 23:04] is amended—

(a) by the insertion after paragraph (b) of the following paragraph—

“(b1) in the case of a person other than a company, a trust or a pension fund, who is the holder of a temporary employment permit issued in terms of the Immigration Act [Chapter 4:02] in respect of his

or her employment with a licensed investor having a qualifying degree of export-orientation as defined in section 2 of the Taxes Act, at the specified percentage of each United States dollar of his or her taxable income from that employment;”;

- (b) by the repeal of paragraphs (e) and (e1) and the substitution of—
 - “(e) in respect of that part of the taxable income of a licensed investor having a qualifying degree of export-orientation as defined in section 2 of the Taxes Act which is attributable to the operations to which its investment licence relates, for the first five years after the commencement of the operation, at the percentage of each dollar of that income specified in Part II of the Schedule in respect of those years;”.

3 Amendment of Schedule to Chapter I of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2017, the Schedule (“Credits and Rates of Income Tax”) to Chapter I of the Finance Act [*Chapter 23:04*] is amended in Part II (“Rates of Income Tax on Taxable Income earned in Foreign Currency”)—

- (a) by the insertion of the following item after the item relating to section 14(2)(b)—
 - “14(2)(b1) Taxable income of individual (holding temporary employment permit from employment with a licensed investor having qualifying degree of export-orientation as defined in section 2 of the Taxes Act) 15”
- (b) by the repeal of the item relating to section 14(2) (e1) and the substitution of—
 - “14(2)(e) Taxable income of licensed investor having qualifying degree of export-orientation as defined in section 2 of the Taxes Act) before the end of the fifth year of its operations as such). 0
 - Taxable income of licensed investor after the fifth year of its operations as such 15”.

4 New section substituted for section 22C of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2017, section 22C of the Finance Act [*Chapter 23:04*] is repealed and the following section is substituted—

“22C Presumptive tax

The presumptive tax chargeable in terms of section 36C of the Taxes Act shall be in the case of—

- (a) informal traders, calculated at the rate of ten *per centum* of each dollar of the rent upon which the tax is chargeable in terms of the Twenty-Sixth Schedule to the Taxes Act;
- (b) small-scale miners, calculated at the rate of zero *per centum* of each dollar of the purchase-price of precious metals or

- precious stones upon which the tax is chargeable in terms of the Twenty-Sixth Schedule to the Taxes Act; or
- (c) operators of taxicabs for the carriage of passengers for hire or reward having seating accommodation for not more than seven passengers, twenty-five dollars per month for each such taxicab so operated; or
 - (d) operators of omnibuses for the carriage of passengers for hire or reward having seating accommodation for not less than eight or more than fourteen passengers, forty dollars per month for each such omnibus so operated; or
 - (e) operators of omnibuses for the carriage of passengers for hire or reward having seating accommodation for not less than fifteen or more than twenty-four passengers, forty-five dollars per month for each such omnibus so operated; or
 - (f) operators of omnibuses for the carriage of passengers for hire or reward having seating accommodation for not less than twenty-five or more than thirty-six passengers, seventy dollars per month for each such omnibus so operated; or
 - (g) operators of omnibuses for the carriage of passengers for hire or reward having seating accommodation for not less than thirty-seven passengers, one hundred dollars per month for each such omnibus so operated; or
 - (h) operators of goods vehicles having a carrying capacity—
 - (i) of more than ten tonnes but less than twenty tonnes two hundred dollars per month;
 - (ii) of ten tonnes or less but which is driving one or more trailers resulting in a combined carrying capacity of more than fifteen tonnes but less than twenty tonnes, five hundred dollars per month;
 - (iii) of twenty tonnes or more, five hundred dollars per month;or
 - (i) operators of driving schools providing driving tuition—
 - (i) for class 4 vehicles only, one hundred dollars per month;
 - (ii) for class 1 and 2 vehicles (whether or not in addition to providing driving tuition for other classes of vehicles), one hundred and thirty dollars per month;
 - (j) operators of hairdressing salons, ten dollars per chair per month; or
 - (k) informal cross-border traders, ten *per centum* of the value for duty purposes of the commercial goods being imported by the traders concerned; or
 - (l) operators of restaurants or bottle-stores, seventy dollars per month; or
 - (m) cottage industry operators, seventy dollars per month; or
 - (n) operators of commercial waterborne vessels of a description referred to in paragraph 2(a) of the definition of “commercial waterborne vessel” in the Twenty-Sixth Schedule of the

Taxes Act, having a carrying capacity (inclusive of cabin crew) —

- (i) of not more than five passengers, sixty dollars per month per vessel;
- (ii) of six passengers but less than sixteen passengers, one hundred dollars per month per vessel;
- (iii) of sixteen passengers but less than twenty-six passengers, two hundred dollars per month per vessel;
- (iv) of more than twenty-six passengers but less than fifty passengers, three hundred and fifty dollars per month per vessel;
- (v) of fifty or more passengers, four hundred and fifty dollars per month per vessel;

or

- (o) operators of commercial waterborne vessels of a description referred to in paragraph 2(b) of the definition of “commercial waterborne vessel” in the Twenty-Sixth Schedule of the Taxes Act (that is to say, operators of fishing rigs), eighty dollars per month.”.

5 Amendment of section 22E of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2017, section 22E (“Carbon Tax”) is amended by the repeal of subsection (2) and the substitution of the following —

“(2) In addition, a visitor to Zimbabwe who uses within Zimbabwe a motor vehicle registered outside Zimbabwe shall, upon entering Zimbabwe, and for each month or part of a month during which he or she visits Zimbabwe, pay carbon tax in respect of such vehicle to the Zimbabwe Revenue Authority in United States dollars (or the equivalent in Euros or in any other currency denominated under the Exchange Control (General) Order, 1996 (Statutory Instrument 110 of 1996) at the prevailing international cross rate of exchange), at the rate of ten United States dollars per vehicle.”.

6 Amendment of section 22H of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2017, section 22H (“NOCZIM debt redemption levy”) is amended in paragraph (a) by the deletion of “six point seven United States cents per litre of petrol” and the substitution of “five point seven United States cents per litre of petrol”.

Amendments to Income Tax Act [Chapter 23:06]

7 Amendment of section 2 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, section 2 (“Interpretation”)(1) of the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following definitions —

““special economic zone” means any part of Zimbabwe declared in terms of the Special Economic Zones Act [*Chapter 14:34*] (No. 7 of 2016);”.

“investment licence” means an investment licence issued in terms of the Special Economic Zones Act [*Chapter 14:34*] (No. 7 of 2016), to a

licensed investor with a qualifying degree of export-orientation, and “licensed investor” shall be construed accordingly;
 “qualifying degree of export-orientation”, as characterising a licensed investor, means that the licensed investor exports all of its goods and services;”.

8 Amendment of section 16 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, section 16 (“Cases in which no deduction shall be made”) of the Income Tax Act [*Chapter 23:06*] is amended by the repeal of paragraph (r) and the substitution of—

- “(r) in the case of expenditure incurred on fees, administration and management in favour of a company of which the taxpayer is an associated enterprise, or (where the company is a foreign company) the local branch—
- (i) incurred prior to the commencement of trade or the production of income or during any period of non-production, any amount in excess of zero comma seventy-five *per centum* of the amount obtained by applying the following formula—

$$A - (B + C)$$

where—

- A represents the total expenditure qualifying for deduction in terms of section 15;
- B represents the expenditure on fees or administration and management paid outside Zimbabwe;
- C represents expenditure qualifying for deduction in terms of section 15(2)(f)(i);
- (ii) incurred after the commencement of trade or the production of income, any amount in excess of one *per centum* of the amount obtained by applying the above formula.”.

9 New sections inserted after section 19 of Cap. 23:06

With effect from the 1st January, 2017, the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following sections after section 19—

“19A Non-resident companies: basis of charge to and determination of company tax

(1) A company not resident in Zimbabwe (“the non-resident company”) is liable to tax if it carries on a business in Zimbabwe through a permanent establishment in Zimbabwe.

(2) If it does so, it is liable to tax subject to any exceptions provided for by this Act, on all taxable income, wherever arising, that is attributable to its permanent establishment in Zimbabwe.

(3) The taxable income attributable to a permanent establishment of a non-resident company for the purposes of tax may derive from—

- (a) trade, that is to say business income arising directly or indirectly through or from the establishment; and
- (b) investment, that is to say income from property or rights used by, or held by or for, the establishment.

(4) There shall be attributed to the permanent establishment of a non-resident company the taxable income it would have made if it were a distinct and separate enterprise, engaged in the same or similar activities under the same or similar conditions, dealing wholly independently from the non-resident company.

(5) In applying subsection (3)—

- (a) it shall be assumed that the permanent establishment has the same credit rating as the non-resident company of which it is the permanent establishment; and
- (b) it shall also be assumed that the permanent establishment has such equity and loan capital as it could reasonably be expected to have in the circumstances specified in that subsection; and
- (c) no deduction may be made in respect of costs in excess of those that would have been incurred on the foregoing assumptions; and
- (d) there shall be allowed as deductions any allowable expenses incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in Zimbabwe or elsewhere (in this paragraph “allowable expenses” means expenses of a kind in respect of which a deduction would be allowed for tax purposes if incurred by a company resident in Zimbabwe).

19B Meaning of “permanent establishment”

(1) For the purposes of this Act a company has a permanent establishment in Zimbabwe if, and only if—

- (a) it has a fixed place of business there through which the business of the company is wholly or partly carried on; or
- (b) an agent is acting on behalf of the company and in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the company, and these contracts are—
 - (i) in the name of the company; or
 - (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that company or that the company has the right to use; or
 - (iii) for the provision of services by that company.

(2) The above description is subject to the following provisions—

- (a) a “fixed place of business” includes (without prejudice to the generality of that expression)—
 - (i) a place of management;
 - (ii) a branch;
 - (iii) an office;
 - (iv) a factory;
 - (v) a workshop;

- (vi) an installation or structure for the exploration of natural resources;
- (vii) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (viii) a building site, or construction or installation project;
- (b) a company is not regarded as having a permanent establishment in Zimbabwe by reason of the fact that it carries on business there through an agent of independent status acting in the ordinary course of his or her business (where, however, a person acts exclusively or almost exclusively on behalf of one or more companies to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such company);
- (c) nor is a company regarded as having a permanent establishment in Zimbabwe by reason of the fact of—
 - (i) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (ii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (iii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (iv) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - (v) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity;
 - (vi) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (i) to (v):

Provided that such activity or, in the case of subparagraph (vi), the overall activity of the fixed place of business, is of a preparatory or auxiliary character;

- (d) for the purposes of this section, a person is closely related to a company if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or companies. In any case, a person shall be considered to be closely related to a company if one possesses directly or indirectly more than fifty *per centum* of the beneficial interest in the other (or, in the case of a company, more than fifty *per centum* of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than fifty *per centum* of the beneficial interest (or, in the case of a company, more than fifty *per centum* of

the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the company.”.

10 Amendment of section 72 of Cap. 23:06

Section 72 (“Payment of provisional tax”) of the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following subsection after subsection (13)—

“(14) With particular reference to subsection (13) (b), the Commissioner-General may, on application by a taxpayer who qualifies as a “small or medium enterprise” as defined in section 2B of the Charging Act, permit such taxpayer to pay provisional tax under this section on a monthly basis, that is to say, one month at a time in advance.”.

11 New section inserted after section 80F in Cap. 23:06

With effect from the 1st January, 2017, the Income Tax Act [*Chapter 23:06*] is amended by the insertion after section 80F of the following section—

“80FF Commissioner may require registered taxpayers to become registered users

(1) The Commissioner may, by notice in writing to any taxpayer who renders a self-assessment return, require such taxpayer to become a registered user.

(2) On receiving a notice the taxpayer concerned shall make an application in terms of section 80F to become a registered user.

(3) A taxpayer upon whom the Commissioner has served a notice in terms of subsection (1) and who fails without just cause to comply with the notice within the first seven days of the period of one hundred and eighty-one days referred to in paragraph (a) below, shall—

(a) be liable for a civil penalty of thirty United States dollars (or the maximum monetary figure specified from time to time for level four, whichever is the lesser amount) for each day the registered taxpayer remains in default, not exceeding a period of one hundred and eighty-one days:

Provided that the Commissioner shall have power to waive the payment or refund the whole or part of any penalty prescribed under this paragraph if he or she is satisfied that the contravention was not wilful, or not due to the want of reasonable care; and

(b) if the registered taxpayer continues to be in default after the period specified in paragraph (a), be guilty of an offence and liable on conviction to a fine not exceeding level ten or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) A civil penalty order that becomes payable by the infringer shall constitute a debt due by the infringer to the Zimbabwe Revenue Authority and shall at any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Authority.

(5) The amount of a civil penalty shall be paid into and form part of the funds of the Zimbabwe Revenue Authority.”.

12 New section inserted after section 98B of Cap. 23:06

With effect from the 1st January, 2017, the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following section after section 98B —

“98C Reporting of unprofessional conduct

(1) For the purposes of this section “controlling body” means any professional association, body or board which has been established, whether voluntarily or by or under any law, for the purpose of exercising control over the carrying on of any profession, calling or occupation and which has power to take disciplinary action against any person who in the carrying on of such profession, calling or occupation fails to comply *with or contravenes any rules or code of conduct laid down by such association, body or board.*

(2) Where any person who carries on any profession, calling or occupation in respect of which a controlling body has been established has, in relation to the affairs of any other person, hereinafter referred to as a client, done or omitted to do anything which in the opinion of the Commissioner—

- (a) was intended to enable or assist the client to evade or unduly postpone the performance of any duty or obligation imposed on such client by or under this Act or to obtain any refund of tax under this Act to which such client is not entitled, or by reason of negligence on the part of such person resulted in the avoidance or undue postponement of the performance of any such duty or obligation or the obtaining of any such refund; and
- (b) constitutes a contravention of any rule or code of conduct laid down by the controlling body which may result in disciplinary action being taken against such person by the body;

the Commissioner may lodge a complaint with the said controlling body.

(3) The Commissioner may in lodging any complaint under subsection (2) disclose such information relating to the client’s affairs as in the opinion of the Commissioner it is necessary to lay before the controlling body to which the complaint is made.

(4) Before lodging any such complaint or disclosing any information the Commissioner shall deliver or send to the client and the person against whom the complaint is to be made a written notification of his or her intended action setting forth particulars of the said information.

(5) The client or the said person may within thirty days after the date of such written notification lodge in writing with the Commissioner any objection he or she may have to the lodging of the said complaint.

(6) If on the expiry of the said period of thirty days no objection has been lodged as contemplated in subsection (5), or if an objection has been lodged and the Commissioner is not satisfied that the objection should be sustained, the Commissioner may thereupon lodge the complaint as contemplated in subsection (2).

(7) The complaint shall be considered by the controlling body to which it is made and may be dealt with by it in such manner as the controlling body in terms of its rules sees fit:

Provided that any hearing of the matter shall not be public and may only be attended by persons whose attendance, in the opinion of the controlling body, is necessary for the proper consideration of the complaint.

(8) The controlling body with which a complaint is lodged and its members shall at all times preserve and aid in preserving secrecy in regard to such information as to the affairs of the client as may be conveyed to them by the Commissioner or as may otherwise come to their notice in the investigation of the Commissioner's complaint and shall not communicate such information to any person whatsoever other than the client concerned or the person against whom the complaint is lodged, unless the disclosure of such information is ordered by a competent court of law."

13 Amendment of Third Schedule to Cap. 23:06

The Third Schedule ("Exemptions from Income Tax") to the Income Tax Act [Chapter 23:06] is amended—

- (a) in paragraph 1 by the repeal of paragraph (f) and the substitution of the following—
 - "(f) the wholly owned company of the Reserve Bank of Zimbabwe called the Zimbabwe Asset Management Corporation (Private) Limited (ZAMCO), incorporated in terms of the Companies Act [Chapter 24:03] on the 15th July 2014, with effect from that date.";
- (b) by the repeal of paragraph 9 and the substitution of—
 - "9. An amount received by or accrued to or in favour of a person by way of a dividend from a company which is incorporated in Zimbabwe and is charged or chargeable to income tax. (This exemption does not, however, apply to any amount received by or accrued to or in favour of a person by way of a dividend deemed to have been paid in terms of section 26 (2) or 28 (2)).";
- (c) by the insertion of the following paragraph after paragraph 15—
 - "16. A premium paid by the Reserve Bank of Zimbabwe on receipts of earnings by exporters and on remittances from abroad received by individuals resident in Zimbabwe, being receipts or remittances channelled through any authorised dealer in terms of the Exchange Control Act [Chapter 22:05]."

14 Amendment of Fourth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Fourth Schedule ("Deductions to be Allowed in Respect of Buildings, Improvements, Machinery and Equipment Used for Commercial, Industrial and Farming Purposes, and Other Provisions Relating Thereto") to the Income Tax Act [Chapter 23:06] is amended in paragraph 9 ("Rates of special initial allowance") by the insertion after paragraph (h) of the following paragraph—

- "(h1) on the 1st January, 2010, or on any subsequent year of assessment, ending on the 31st December, 2013, be a sum equal to twenty-five *per centum*;
- (h2) on the 1st January, 2017, or on any subsequent year of assessment, be a sum equal to one hundred *per centum* in the case of a taxpayer which is a "licensed investor" as defined in section 2:

Provided that fifty *per centum* shall be allowed in the first year of assessment in which the taxpayer claims the special initial allowance in terms of this subparagraph, and twenty-five *per centum* in each of the next two years of assessment following that year;”.

15 Amendment of Ninth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Ninth Schedule (“Non-Residents Shareholders’ Tax”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 1 (“Interpretation”) (1) in the definition of “dividend”, by the repeal of paragraph (h) and the substitution of—
 - “(h) any amount so distributed by a licensed investor having a qualifying degree of export orientation which arises from its operations in an special economic zone;”;
- (b) in paragraph 2A (“Payment of tax where dividend deemed to have been paid in terms of section 26 (2)”) by the deletion of “for that dividend upon written notification by the Commissioner of the tax due” and the substitution of “for that deemed dividend in accordance with the provisions on self-assessment as provided for in section 37A”.

16 Amendment of Fifteenth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Fifteenth Schedule (“Resident Shareholders’ Tax”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 1 (“Interpretation”) (1) in the definition of “dividend” by the repeal of paragraph (f) and the substitution of—
 - “(f) any amount so distributed by a licensed investor having a qualifying degree of export-orientation which arises from its operations in a special economic zone; and”;
- (b) in paragraph 2A (“Payment of tax where dividend deemed to have been paid in terms of section 28 (2)”) by the deletion of “for that dividend upon written notification by the Commissioner of the tax due” and the substitution of “for that deemed dividend in accordance with the provisions on self-assessment as provided for in section 37A”.

17 Amendment of Seventeenth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Seventeenth Schedule (“Non-Residents’ Tax on Fees”) to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 1 (“Interpretation”)(1) in the definition of “fees” —

- (a) by the repeal of paragraph (g) and the substitution of—
 - “(g) services rendered to a licensed investor in respect of its operations in a special economic zone;”;
- (b) by the insertion of the following paragraph after paragraph (i)—
 - “(j) non-executive fees subject to tax in terms of the Thirty-Third Schedule;”.

18 Amendment of Nineteenth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Nineteenth Schedule (“Non-Residents’ Tax on Royalties”) to the Income Tax Act

[Chapter 23:06] is amended in paragraph 1 (“Interpretation”)(1) by the repeal of the definition of “non-resident person” and the substitution of—

““non-resident person” means—

- (a) a person, other than a company, who; or
- (b) a partnership or foreign company which;

is not ordinarily resident in Zimbabwe, but does not include a person, partnership or foreign company that is a licensed investor having a qualifying degree of export-orientation;”.

19 Amendment of Twenty-Sixth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Twenty-Sixth Schedule (“Presumptive tax”) to the Income Tax Act [Chapter 23:06] is amended in paragraph 1 (“Interpretation”) by the repeal of the definition of “informal trader” and the substitution of—

““informal trader” means an individual who—

- (a) carries on a trade for his or her own account from which he or she derives a gross income of less than six thousand United States dollars or such other amount as the Minister may prescribe by notice in the *Gazette*; and
- (b) has not, in the most recent year of assessment for which he or she could have done so, furnished a return in terms of Part V for the assessment of the income referred to in paragraph (a);

and, without limiting the generality of paragraph (a), includes—

- (c) a hawker or street vendor; and
- (d) a person who sells articles at a place commonly known as a “people’s market” or a “flea market”; and
- (e) a person who manufactures or processes any articles in or from residential premises;

but does not include a small-scale miner, operator of a taxicab, omnibus or goods vehicle, informal cross-border trader, operator of a restaurant or bottle-store or a cottage industry operator;”.

20 Amendment of Thirty-First Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Thirty-First Schedule (“NOCZIM debt redemption and strategic reserve levy”) to the Income Tax Act [Chapter 23:06] is amended in paragraph 2 (“Liability for NOCZIM debt redemption and strategic reserve levy”)(1) by the deletion of “every oil company and other person or entity that” and the substitution of “every oil company and other person or entity (other than the State) that”.

PART III

VALUE ADDED TAX

Amendment to Chapter IV of Finance Act [Chapter 23:04]

21 New section substituted for section 29 of Cap. 23:04

With effect from the 1st January, 2017, section 29 of the Finance Act [Chapter 23:04] is repealed and substituted by—

“29 Rates of value added tax

- (1) The rate of value added tax shall be as set out in the Schedule.
- (2) The rate of value added withholding tax shall be as set out in Part IV.”.

22 Amendment of Schedule to Chapter IV of Cap. 23:04

With effect from the 1st January, 2017, the Schedule to Chapter IV of the Finance Act [*Chapter 23:04*] is amended by the insertion of the following Part after Part III—

“PART IV

VALUE ADDED WITHHOLDING TAX

The amount of value added withholding tax to be withheld by a value added withholding tax agent in terms of section 50A of the principal Act shall be two-thirds of the output tax to be paid to a specified operator.”.

Amendment to Value Added Tax Act [Chapter 23:12]

23 Amendment of section 2 of Cap. 23:12

Section 2 (“Interpretation”)(1) of the Value Added Tax Act [*Chapter 23:12*](1) is amended in the definition of “financial services” by the repeal of paragraph (a) and the substitution of—

- “(a) any service provided by or on behalf of a banking or other institution that is a participant in a payment system registered in terms of the National Payment Systems Act [*Chapter 24:23*] (No. 21 of 2001); or”.

24 New section inserted after section 50 of Cap. 23:12

With effect from the 1st January, 2017, the Value Added Tax Act [*Chapter 23:12*] is amended by the insertion in Part VIII of the following section after section 50—

“50A Commissioner may appoint value added withholding tax agents

(1) If the Commissioner reasonably believes that any registered operator or significant number of registered operators in any sector of the economy have not been regularly submitting returns of output tax charged and input tax paid in terms of this Act, or not submitting truthful returns, the Commissioner may by notice in writing appoint any registered operator who purchases goods and services from the first-mentioned registered operator or class of registered operators (hereinafter referred to as “specified operators”) to be a value added tax withholding agent in relation to that specified operator or class of specified operators for the period specified in the notice or until the Commissioner revokes the notice, whichever is the earlier.

(2) Every value added withholding tax agent shall—

- (a) withhold the portion of the full amount of output tax specified in the Charging Act from each amount to be paid to a specified operator; and
- (b) remit each amount so withheld to the Commissioner on or before the 15th of the following month or any other date that Commissioner may fix in the specifying notice or prescribe.

(3) When submitting a return in terms of section 28, every specified operator shall, for the purposes of subsection (4), indicate the amount of

any value added withholding tax withheld by the value added withholding tax agent.

(4) The Commissioner shall in determining tax payable in terms of section 15, credit the account of the specified operator with the value added withholding tax withheld in terms of subsection (2).

(5) For the avoidance of doubt, it is declared that the withholding of tax under subsection (2) shall not relieve the supplier of taxable supplies of the obligation to account for tax in accordance with this Act.

(6) Any value added withholding tax agent who fails to withhold or pay to the Commissioner any amount of value added withholding tax in terms of subsection (2) shall be personally liable for the payment, not later than the date on which payment should have been made if value added withholding tax had been withheld in terms of section (2), of the amount of value added withholding tax which he or she failed to withhold or pay to the Commissioner and a further amount equal to such value added withholding tax.

(7) In addition, a value added withholding tax agent who fails to comply with subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding level seven or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.”.

25 New section inserted after section 68E in Cap. 23:06

With effect from the 1st January, 2017, the Value Added Tax Act [*Chapter 23:12*] is amended by the insertion after section 68F of the following section—

“68EE Commissioner may require registered operators to become registered users

(1) The Commissioner may, by notice in writing to any registered operator, require such taxpayer to become a registered user.

(2) On receiving a notice the registered operator concerned shall make an application in terms of section 68E to become a registered user.

(3) A registered operator upon whom the Commissioner has served a notice in terms of subsection (1) and who fails without just cause to comply with the notice within the first seven days of the period of one hundred and eighty-one days referred to in paragraph (a) below, shall—

- (a) be liable for a civil penalty of thirty United States dollars (or the maximum monetary figure specified from time to time for level four, whichever is the lesser amount) for each day the registered operator remains in default, not exceeding a period of one hundred and eighty-one days:

Provided that the Commissioner shall have power to waive the payment or refund the whole or part of any penalty prescribed under this paragraph if he or she is satisfied that the contravention was not wilful, or not due to the want of reasonable care; and

- (b) if the registered operator continues to be in default after the period specified in paragraph (a), be guilty of an offence and liable on conviction to a fine not exceeding level ten

or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) A civil penalty order that becomes payable by the infringer shall constitute a debt due by the infringer to the Zimbabwe Revenue Authority and shall, at any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Authority.

(5) The amount of a civil penalty shall be paid into and form part of the funds of the Zimbabwe Revenue Authority.”.

26 Deferment of effective date of section 12D of Cap. 23:12

Despite section 14(2) of the Finance Act, 2014, section 12D (“Collection of tax on exportation of unbeneficiated platinum, determination of value thereof”) of the Value Added Tax Act [*Chapter 23:12*] has effect from the year of assessment beginning on the 1st January, 2018.

27 Moratorium on punitive application of section 23 of Cap. 23:12 to certain persons required to register thereunder

(1) Subject to subsection (2), with effect from the 1st January, 2017, and for a period of six months thereafter ending on the 30th June, 2017, any person carrying on any trade who is liable to be registered in terms of section 23 (“Registration of persons making supplies in the course of trades”) of the Value Added Tax Act [*Chapter 23:12*] but who failed to apply timeously for registration in terms of that section before the 1st January, 2017, shall not be subject to any penalties for failure to do so, including the charging of tax deemed to be payable from the date when the Commissioner deems the person to have become liable for registration.

(2) The moratorium referred to in subsection (1) applies only to persons carrying on any trade—

- (a) whose turnover before the date of registration was or is deemed to be between sixty thousand dollars and two hundred and forty-thousand dollars *per annum*; and
- (b) who voluntarily apply for registration within the period specified in subsection (1).

PART IV

CAPITAL GAINS TAX

28 Amendment of section 2 of Cap. 23:01

With effect from the year of assessment beginning on the 1st January, 2017, section 2 (“Interpretation”) of the Capital Gains Tax Act [*Chapter 23:01*] is amended by the insertion in subsection (1) of the following definition—

““specified asset” means—

- (a) immovable property; or
- (b) any marketable security; or
- (c) any right or title to property whether tangible or intangible that is registered or required to be registered in terms of—
 - (i) the Mines and Minerals Act [*Chapter 21:05*]; or
 - (ii) the Patents Act [*Chapter 26:03*]; or

- (iii) the Trade Marks Act [*Chapter 26:04*]; or
- (iv) the Industrial Designs Act [*Chapter 26:02*]; or
- (v) the Copyright and Neighbouring Rights [*Chapter 26:05*];
or
- (vi) the Brands Act [*Chapter 19:05*]; or
- (vii) the Geographical Indications Act [*Chapter 26:06*]; or
- (viii) the Integrated Circuit Layout-Designs Act [*Chapter 26:07*]
Act (No. 18 of 2001);”.

29 Amendment of section 10 of Cap. 23:01

With effect from the year of assessment beginning on the 1st January, 2017, section 10 (“Exemptions from capital gains tax”) of the Capital Gains Tax Act [*Chapter 23:01*] is amended by the insertion after paragraph (o) of the following paragraph—

- “(p) the disposal by way of donation of immoveable property consisting of one or more housing units to any local authority, approved employee share ownership trust or community share ownership trust or scheme.

For the purposes of this paragraph—

“community share ownership trust or scheme” means such a scheme approved in terms of the Indigenisation and Economic Empowerment (General) Regulations, 2010, published in Statutory Instrument 17 of 2010; or any other law that may be substituted for the same.”.

30 Amendment of section 22A of Cap 23:01

With effect from the year of assessment beginning on the 1st January, 2017, section 22A (“Interpretation in Part IIIA”) of the Capital Gains Tax Act [*Chapter 23:06*] is amended in the definition of “depository” by the insertion of the following paragraph—

- “(e) the registrar or other registering official by whatever name called responsible for registering rights, titles and transfers or amendments thereof in terms of any of the following Acts—
 - (i) the Mines and Minerals Act [*Chapter 21:05*]; or
 - (ii) the Patents Act [*Chapter 26:03*]; or
 - (iii) the Trade Marks Act [*Chapter 26:04*]; or
 - (iv) the Industrial Designs Act [*Chapter 26:02*]; or
 - (v) the Copyright and Neighbouring Rights Act [*Chapter 26:05*]; or
 - (vi) the Brands Act [*Chapter 19:05*]; or
 - (vii) the Geographical Indications Act [*Chapter 26:06*]; or
 - (viii) the Integrated Circuit Layout-Designs Act [*Chapter 26:07*] Act (No. 18 of 2001);”.

PART V

CUSTOMS AND EXCISE

Amendments to Finance Act [*Chapter 23:04*]

31 New Chapter substituted for Chapter XII in Cap. 23:04

With effect from the 1st January, 2017, the Finance Act [*Chapter 23:04*] is amended by the repeal of Chapter XII and the substitution of—

“CHAPTER XII

SPECIAL EXCISE DUTY ON AIRTIME AND HEALTH FUND LEVY

48 Interpretation in Chapter XII

Any word or expression to which a meaning has been assigned in Part XIIB of the Customs and Excise Act [*Chapter 23:02*] shall bear the same meaning when used in this Chapter.

49 Rate of special excise duty on airtime

The rate of special excise duty on airtime shall be ten *per centum* of the sale value of the airtime, five *per centum* of which shall be designated as a Health Fund levy and be credited to a fund established under section 18 of the Public Finance Management Act [*Chapter 22:19*] (11/2009) for the purchase of drugs and equipment for Government hospitals, provincial hospitals and district or general hospitals as defined in the Health Service Act [*Chapter 15:16*] (No. 28 of 2004).”.

Amendments to Customs and Excise Act [Chapter 23:02]

32 New section inserted after section 216B of Cap. 23:02

With effect from the 1st January, 2017, the Customs and Excise Act [*Chapter 23:02*] is amended by the insertion of the following section after section 216B—

“216C Reporting of unprofessional conduct

(1) For the purposes of this section “controlling body” means any professional association, body or board which has been established, whether voluntarily or by or under any law, for the purpose of exercising control over the carrying on of any profession, calling or occupation and which has power to take disciplinary action against any person who in the carrying on of such profession, calling or occupation fails to comply with or contravenes any rules or code of conduct laid down by such association, body or board.

(2) Where any person who carries on any profession, calling or occupation in respect of which a controlling body has been established has, in relation to the affairs of any other person, hereinafter referred to as a client, done or omitted to do anything which in the opinion of the Commissioner—

- (a) was intended to enable or assist the client to evade or unduly postpone the performance of any duty or obligation imposed on such client by or under this Act or to obtain any refund of tax under this Act to which such client is not entitled, or by reason of negligence on the part of such person resulted in the avoidance or undue postponement of the performance of any such duty or obligation or the obtaining of any such refund; and
- (b) constitutes a contravention of any rule or code of conduct laid down by the controlling body which may result in disciplinary action being taken against such person by the body;

the Commissioner may lodge a complaint with the said controlling body.

(3) The Commissioner may in lodging any complaint under subsection (2) disclose such information relating to the client's affairs as in the opinion of the Commissioner it is necessary to lay before the controlling body to which the complaint is made.

(4) Before lodging any such complaint or disclosing any information the Commissioner shall deliver or send to the client and the person against whom the complaint is to be made a written notification of his or her intended action setting forth particulars of the said information.

(5) The client or the said person may within thirty days after the date of such written notification lodge in writing with the Commissioner any objection he or she may have to the lodging of the said complaint.

(6) If on the expiry of the said period of thirty days no objection has been lodged as contemplated in subsection (5), or if an objection has been lodged and the Commissioner is not satisfied that the objection should be sustained, the Commissioner may thereupon lodge the complaint as contemplated in subsection (2).

(7) The complaint shall be considered by the controlling body to which it is made and may be dealt with by it in such manner as the controlling body in terms of its rules sees fit:

Provided that any hearing of the matter shall not be public and may only be attended by persons whose attendance, in the opinion of the controlling body, is necessary for the proper consideration of the complaint.

(8) The controlling body with which a complaint is lodged and its members shall at all times preserve and aid in preserving secrecy in regard to such information as to the affairs of the client as may be conveyed to them by the Commissioner or as may otherwise come to their notice in the investigation of the Commissioner's complaint and shall not communicate such information to any person whatsoever other than the client concerned or the person against whom the complaint is lodged, unless the disclosure of such information is ordered by a competent court of law."

PART VI

REVENUE AUTHORITY

33 Amendment of section 19 of Cap. 23:11

(1) Section 19 ("Appointment and functions of Commissioner-General") of the Revenue Authority Act [*Chapter 23:11*] (No. 17 of 1999) is amended by the insertion after subsection (1) of the following subsections—

"(1a) The Minister shall, before the Board notifies any person that it intends to appoint him or her as Commissioner-General, confirm the appointment by the Board of the Commissioner-General, and, if the Minister refuses to do so, he or she shall request the Board to appoint another person as Commissioner-General.

(1b) The Commissioner-General shall serve for a term of five years and be eligible for re-appointment for one more five-year term."

(2) Section 19(1b) of the Revenue Authority Act [*Chapter 23:11*] (No. 17 of 1999) as inserted by this section applies to the Commissioner-General of the Zimbabwe Revenue Authority in office at the date of commencement of this Act.

34 Amendment of section 20 of Cap. 23:11

(1) Section 20 (“Commissioners and other staff of Authority”) of the Revenue Authority Act [*Chapter 23:11*] (No. 17 of 1999) is amended by the insertion of the following subsections, the existing section becoming subsection (1)—

“(2) The Minister shall, before the Board notifies any person that it intends to appoint him or her as a Commissioner, confirm the appointment by the Board of the Commissioner in question, and, if the Minister refuses to do so, he or she shall request the Board to appoint another person as Commissioner.

(3) Every Commissioner shall serve for a term of four years and be eligible for re-appointment for not more than two more four-year terms.”.

(2) Section 20(3) of the Revenue Authority Act [*Chapter 23:11*] (No. 17 of 1999) as inserted by this section applies to every Commissioner of the Zimbabwe Revenue Authority in office at the date of commencement of this Act.

PART VI**AMENDMENT OF OTHER LAWS****35 Amendment of Cap. 9:23**

With effect from the 1st January, 2017, the First Schedule to the Criminal Law Code is repealed and the following is substituted—

“FIRST SCHEDULE (*Sections 2(1) and 280*)

STANDARD SCALE OF FINES

Level	Monetary Amount (US \$)
1	10
2	15
3	30
4	100
5	200
6	300
7	400
8	500
9	600
10	700
11	1000
12	2000
13	3000
14	5 000.”.

36 Amendment of section 17 of Cap. 10:29

Section 17 (“Restrictions on disclosure of information”) of the Census and Statistics Act [*Chapter 10:29*] (No. 1 of 2007) is amended by the insertion of the following subsection after subsection (3)—

“(3a) Notwithstanding anything to the contrary in subsection (1), the Director-General may, in the furtherance of statistics-based research, release any data, that is to say the results of any census or statistical survey, to any data user on the condition that the data is anonymised and that otherwise confidentiality has been secured with respect to any individual who provided any statistical information to which section 16 relates.

In this subsection “data user” means any —

- (a) agency, arm or organ of the State;
- (b) non-State entity, whether of a private, regional or international character, that is engaged in research, including research institutions, training institutions or educational institutions.”.