

## FINANCE BILL, 2009

## MEMORANDUM

This Bill will amend the Finance Act [*Chapter 23:04*], the Income Tax Act [*Chapter 23:06*], the Stamp Duties Act [*Chapter 23:09*], the Capital Gains Tax Act [*Chapter 23:06*] and the Customs and Excise Act [*Chapter 23:02*]. In more detail, the individual clauses of the Bill provide as follows:

## PART I

## PRELIMINARY

*Clause 1*

This clause sets out the Bill's short title.

*Clauses 2, 3, 4, 8 and 23*

These clauses insert provisions in the Finance Act to enable the charging in foreign currency of income tax, presumptive tax, Carbon tax, NOCZIM debt redemption levy and most other taxes for which provision is made under the Finance and Income Tax Acts. In addition, the application of credits in favour of older taxpayers, blind persons and mentally or physically disabled persons will be denominated in United States dollars. Subclause (3) and (4) of clause 3 make transitional provisions for the conversion of financial accounts from Zimbabwe dollars to a foreign currency or dual pricing system.

*Clause 5*

Section 14 of the Finance Act prescribes the rates of income tax payable by various classes of taxpayers.

This clause will for the first time provide for United States dollar income "bands" according to which rates of income tax will be calculated. The minimum level of United States dollar income that will attract income tax is US\$125 per month. The new bands will apply for the year of assessment beginning on the 1<sup>st</sup> January, 2009. The bands are in addition to those bands for income earned or accrued in Zimbabwean dollars.

*Clause 6*

This clause will authorise the charging in United States dollars of certain taxes based on the presumed income of certain businesses ("presumptive tax"). The businesses in question are operators of taxicabs, omnibuses, goods vehicles, driving schools and hairdressing salons.

*Clauses 7*

The Finance (No. 2) Act, 2005, changed basis on which the carbon tax is charged to owners of vehicles resident in Zimbabwe from a direct tax into a consumption tax payable at the point of importation by oil companies per litre of petroleum products imported by them. This clause seeks to make that tax payable in United States dollars.

*Clause 8*

The NOCZIM debt redemption levy was introduced by the Finance Act, 2003, with effect from the 1<sup>st</sup> December, 2003, to enable NOCZIM, the State petroleum company, to liquidate its debt obligations. This clause seeks to make that levy payable in United States dollars.

*Clauses 9, 15, 19 and 24*

These clauses provide for a new tax called the “miscellaneous income deposit tax” which will tax all deposits in banks and other financial institutions made after the effective date whose source cannot be accounted for to the satisfaction of the bank or financial institutions in question.

*Clause 11*

The Finance Act, 2007, inserted a new Chapter in the principal Finance Act, which sets out the rates of rental to be charged on holders of offer letters in respect of, or lessees of, Model A2 farms allocated to them by the State. The principal amendment made by this clause is replace the schedule of rentals for the quarter beginning the 1<sup>st</sup> January, 2009.

*Clause 12*

This clause seeks to inserted a new Chapter in the principal Finance Act, the effect of which is to consolidate in the hands of the Ministry of Finance the responsibility for ensuring regular reviews and revisions of

*Clause 13*

Section 8(1) of the Income Tax Act defines the term “gross income” for the purposes of the Act. Gross income derivable from employment remuneration includes the value of certain benefits (commonly known as “fringe benefits”) afforded to employees, such as the value of motor vehicles. For the purposes of taxation motor vehicles have a specified deemed value. The purpose of the amendment sought by this clause is to specify these deemed values in United States dollars. The deemed motor vehicle benefit, which varies according to the engine capacity of the vehicle, will vary from US\$50 for vehicles with the lowest engine capacity (i.e. below 1500cc) to US\$100 for vehicles with the highest engine capacity (i.e. above 3000cc).

*Clause 14*

Section 15 of the Income Tax Act sets out amounts that are to be deducted from taxpayers’ income for the purpose of determining their taxable income.

Paragraph (a) of this clause will increase the deductible amount of donations approved by the Minister responsible for Health to the State or a fund for equipping, constructing, maintaining and stocking hospitals operated by the State, a local authority or a religious organisation from \$20 000 000 000 (Zimbabwean currency) to 100 000 United States dollars.

Paragraph (b) of this clause will increase the deductible amount of donations for research and development to a research institution approved by the Minister responsible for higher or tertiary education from \$20 000 000 000 (Zimbabwean currency) to 100 000 United States dollars..

Paragraph (c) of this clause will increase the deductible amount of donations approved by the Minister responsible for education to the State or a fund for equipping, constructing, maintaining

and stocking schools operated by the State, a local authority or a religious organisation from \$20 000 000 000 (Zimbabwean currency) to 100 000 United States dollars.

Paragraph (d) of this clause will increase from \$7 500 000 000 (Zimbabwean currency) to 2 500 United States dollars. the deduction of any expenditure not exceeding this amount incurred for attending not more than one convention or trade mission in any one year of assessment.

*Clauses 16 and 18*

At present, the duty to keep records to enable income and other taxes to be properly assessed is expressed negatively and indirectly in the “general offences and penalties” section of the Income Tax Act rather than positively. These provisions will express this duty positively and directly.

*Clause 17*

Section 80 of the Income Tax Act provides that if persons who enter into contracts with the Government or statutory bodies have not submitted income tax returns for the most recent year of assessment, the Government or the statutory body concerned is obliged to withhold 10% of all payments due to them under the contracts and pay the withheld amounts to the Commissioner-General. These amounts are then be set off against the income tax due by the contractors when their tax liability is finally assessed. This clause will amend the definition of “contract” to provide for a United States dollar threshold value for contracts denominated in United States dollars, on or above which the Government or the statutory body concerned is obliged to withhold the 10%.

*Clause 20*

The Third Schedule to the Income Tax Act lists amounts that are exempt from income tax.

Paragraph 4(p) of the Schedule exempts terminal benefits given to employees on their retrenchment up to a certain amount. That upper limit will now be expressed in United States dollars.

Paragraphs (a)(iii) and (b) of this clause provides for the tax-exempt amount of income accruing to persons aged over 55 years by way of rental income or interest from deposits with financial institutions or from discounted securities. That tax-exempt amount will now be expressed in United States dollars.

*Clause 21*

The Fourth Schedule to the Income Tax Act specifies certain amounts of expenditure of a capital nature which are allowed to be deducted from gross income. This clause stipulates the maximum specified amounts allowable in respect of the construction of staff housing and for the purchase of passenger motor vehicles. These amounts will now be expressed in United States dollars.

*Clause 22*

The Sixth Schedule to the Income Tax Act sets out the limits to contributions to pension and benefit funds that can be deducted from tax in the hands of an employee and an employer. This clause will express the specified maximum amounts of deduction in United States dollars.

*Clauses 25, 26 and 27*

The Schedule to Chapter II of the Finance Act prescribes the rates of stamp duty payable on various instruments. This clause will provide that, where immovable property that was acquired in foreign currency, the stamp duty payable on the registration thereof will be payable in the same or another specified foreign currency. The same will apply to mortgage bonds and notarial bonds, or any cession or substitution of debtor in respect thereof, broker's notes, off-market share transfer instruments, cheques and policies of insurance that are denominated in a foreign currency.

*Clause 28*

The Finance Act, 2005, imposed a special rate of value added tax of 22,5% on the supply of cellular telecommunications services in the course or furtherance of the supply of such services by a registered operator. This clause will reduce that tax to 15%.

*Clauses 31*

This clause will provide for the payment of value added tax every fifteenth day during the tax period relating to the registered operator concerned.

*Clauses 30*

This clause adds provisions to the Value Added Tax Act concerning the payment of tax in foreign currency on the supply of imported goods and services or the sale of those goods in foreign currency.

*Clause 31*

The effect of this clause, which amends the Chapter of the Finance Act concerned with the rate of estate duty, is to exclude from the dutiable amount the first fifty thousand United States dollars of the value of the estate.

*Clauses 32 and 33*

These clauses add provisions to the Capital Gains Tax Act concerning the payment of tax in foreign currency on capital gains received by or accrued to or in favour of a person in a foreign currency.

*Clauses 34, 35 and 36*

The effect of these amendments to the Capital Gains Tax is define more clearly or shorten the period within which capital gains tax must be paid from the date it becomes due.

*Clause 37*

The effect of this clause which substitutes section 115 of the Customs and Excise Act is to enable the Minister to designate any or all items in the customs tariff book to be "foreign currency dutiable items".

*Clause 38*

The effect of this clause is to enable excise duty on alcoholic beverages, cigarettes and tobacco to be leviable in foreign currency where these items are imported or sold in foreign currency..

*Clause 39*

The effect of this clause is to enable excise duty on the sale of second hand motor vehicle to be charged in foreign currency..

*Clause 40*

The clause provides for the payment of fines at customs-controlled areas in foreign currency.

*Clause 41*

The clause will enable, for instance, refunds to be made of undue duty in foreign currency where such duty was paid in foreign currency.

*Clause 42 and 43*

The Finance (No. 2) Act of 2006, amended the Income Tax Act to empower the Commissioner-General to issue rulings to taxpayers who request them, subject to the conditions set out in the new Thirty-Fourth Schedule to the Income Tax Act. To enable the Commissioner-Commissioner to issue rulings in relation to other revenue Acts (for instance the Value Added Tax Act, the Customs and Excise Act, the Capital Gains Tax Act, the Estate Duty Act and the Stamp Duties Act) it is considered appropriate to transfer these provisions from the Income Tax Act to the Revenue Authority Act. These clauses provide accordingly.

*Clause 44*

The clause will amend the Reserve Bank of Zimbabwe Act to empower the Reserve Bank of Zimbabwe, with the consent of the Minister responsible for finance, to issue vouchers to employees of the State in lieu of cash remuneration whenever there is a shortage of cash in any denomination. The clause also validates the vouchers issued to employees of the State in February, 2009.

*Clauses 45 and 46*

These clauses will amend the Toll Roads Act to permit road tolls to be levied in foreign currency, and to allow a grace period of 7 days within which any person may pay a road toll if for any reason he or she is unable to pay it at the time he or she uses the toll road.

*Clause 47*

The clause will amend the Ninth Schedule to the Criminal Procedure and Evidence Act, This Schedule, titled "Offences Involving Corruption, Organised Crime or Harm to the National

Economy”, refers to those economic offences for which the Attorney-General may issue a certificate authorising the detention without bail of the concerned offenders for 21 days while investigations are undertaken by the Police. The purpose of this amendment is to add to the Schedule certain offences involving the vandalism of vital economic infrastructure, namely telecommunication, electricity and railway lines.

*Clause 48*

The clause will amend the Criminal Law Code to enable fines to be paid in foreign currency at the option of the offender.

*Clause 49*

The clause will amend the Railways Act with a view to penalising more effectively the destruction, damage or vandalism of railway infrastructure and rolling stock and associated equipment.

*Clause 50*

The clause will reintroduce into the Tourism Act penalties for the non payment of tourism levies and other penalties that were inadvertently repealed by the Criminal Law Code when the latter came into force in 2006.

*Clause 51*

The clause will require that all fines levied under the Exchange Control Act for unlawful dealings in foreign currency or gold foreign currency and securities relating thereto shall (with specified exceptions) be leviable in foreign currency alone. It also legislates harsher punishment for certain offences involving the exportation, externalisation or expatriation from Zimbabwe of any foreign currency, securities, gold, silver, platinum and semiprecious precious stones originating in Zimbabwe. Provision is made for the total suspension of prison sentences to encourage the repatriation of the same by offenders. Another provision will make it an offence for shops and other entities to sell any commodity in foreign currency without being licensed to do so by the Reserve Bank. Finally, it is provided that regulations, orders, rules or directions made under the Exchange Control Act may shift the onus of proving certain facts onto any person charged with an offence against such regulations, orders, rules or directions.

*Clause 52*

The clause will amend the Banking Act to insert special provisions for the registration and regulation of “microfinance banks”. Another amendment will enable the Minister responsible for finance to prescribe that the minimum paid-up equity capital of banking institutions be maintained in any specified foreign currency.

*Clause 53*

The clause provides that regulations made under the Bank Use Promotion and Suppression of Moneylaundering Act may shift the onus of proving certain facts onto any person charged with an offence against such regulations.

*Clause 54*

The clause amends the Rural District Councils Act by adding provisions for the levy of a “Special Unit Tax” on A1 and A2 Farms. The tax will be collected by and for the benefit of the Rural District Council within which any A1 and A2 Farms are located, and will be graduated according to the Natural Region within which the farm is situated. A higher tax will be charged on farms located on the most fertile Natural Regions within the Rural District Council concerned.

*Clauses 55 and 56*

Clause 49 saves in force certain provisions of the of the Presidential Powers (Temporary Measures) (Currency Revaluation and Issue of New Currency) Regulations, 2008, which expired at the end of January, 2009, and the Presidential Powers (Temporary Measures) (Currency Revaluation and Issue of New Currency) Regulations, 2009, which will expire early in July. Clause 56 provides for the saving of anything done in the valid exercise of any power under those regulations.



## ARRANGEMENT OF SECTIONS

## PART I

## PRELIMINARY

*Section*

1. Title.

## PART II

## INCOME TAX

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

2. Amendment of section 4 of Cap. 23:04.
3. New section inserted in Part I of Chapter I of Cap. 23:04.
4. Amendment of section 5 of Cap. 23:04.
5. Amendment of section 14 of Cap. 23:04.
6. Amendment of section 22C of Cap. 23:04.
7. Amendment of section 22E of Cap. 23:04.
8. New section substituted for section 22H of Cap. 23:04.
9. New section inserted in Cap. 23:04.
10. Amendment of Schedule to Chapter I of Cap. 23:04.
11. Amendment of Chapter IX (*bis*) of Cap. 23:04.
12. New Chapter inserted in Cap. 23:04.

*Amendments to Income Tax Act [Chapter 23:06]*

13. Amendment of section 8 of Cap. 23:06.
14. Amendment of section 15 of Cap. 23:06.
15. New section inserted after section 36J in Cap. 23:06.
16. Substitution of section 37B in Cap. 23:06.
17. Amendment of section 80 of Cap. 23:06.
18. Amendment of section 81 of Cap. 23:06.
19. New section inserted after section 97C of Cap. 23:06.
20. Amendment of Third Schedule to Cap. 23:06.
21. Amendment of Fourth Schedule to Cap. 23:06.
22. Amendment of Sixth Schedule to Cap. 23:06.
23. Amendment of Thirteenth Schedule to Cap. 23:06.
24. Substitution of Thirty-Fourth Schedule to Cap. 23:06.

PART III

STAMP DUTY

- 25. New section inserted in Chapter II of Cap. 29:03.
- 26. Amendment of section 5 of Cap. 23:04.
- 27. Amendment of Schedule to Chapter II of Cap. 23:04.

PART IV

VALUE ADDED TAX

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

- 28. Amendment of Schedule to Chapter IV of Cap. 23:04.  
*Amendment to Value Added Tax Act [Chapter 23:12]*
- 29. Amendment of section 28 of Cap. 23:12.
- 30. Amendment of section 38 of Cap. 23:12.

PART V

ESTATE DUTY

- 31. Amendment of Schedule to Chapter VI of Cap. 23:04.

PART VI

CAPITAL GAINS TAX

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

- 32. New section substituted for section 37A of Cap. 23:04.
- 33. New section inserted in Chapter VIII of Cap. 23:04.  
*Amendments to Capital Gains Tax Act [Chapter 23:01]*
- 34. Amendment of section 22C of Cap 23:01.
- 35. Amendment of section 22D of Cap 23:01.
- 36. Amendment of section 22E of Cap 23:01.

PART VII

CUSTOMS AND EXCISE

- 37. New section substituted for section 115 of Cap. 23:02.
- 38. Amendment of section 127 of Cap. 23:02.
- 39. Amendment of section 172B of Cap. 23:02.
- 40. Amendment of section 235 of Cap. 23:02.
- 41. New section inserted in Cap. 23:02.

PART IX

REVENUE AUTHORITY

- 42. New section inserted in Cap. 23:11.
- 43. New Schedule inserted in Cap. 23:11.

PART X

RESERVE BANK OF ZIMBABWE

- 44. New section inserted in Cap. 22:15.

PART XI

ROAD TOLLS

- 45. Amendment of section 2 of Cap. 13:13.
- 46. Amendment of section 4 of Cap. 13:13.

PART XII

AMENDMENT OF OTHER ACTS AND SAVINGS

- 47. Amendment of Ninth Schedule to Cap. 9:07.
  - 48. Amendment of Cap. 9:23.
  - 49. Amendment of Cap. 13:09.
  - 50. New section inserted in Cap. 14:20.
  - 51. Amendment of sections 2 and 5 of Cap. 22:05.
  - 52. Amendment of Cap. 24:20.
  - 53. Amendment of section 48 of Cap. 24:24.
  - 54. Amendment of Cap. 29:13.
  - 55. References to old currency system in enactments.
  - 56. Saving of powers exercised under SI 109 of 2008 and SI 6 of 2009.
  - 57. Confirmation of regulations made under section 3 of Cap. 23:04.
- SCHEDULE: Confirmation of Regulations made under section 3 of Cap. 23:04.



1<sup>st</sup> Draft: 29<sup>th</sup> January, 2009

2<sup>nd</sup> Draft: 6<sup>th</sup> February, 2009

3<sup>rd</sup> Draft: 19<sup>th</sup> February, 2009

4<sup>th</sup> Draft: 24<sup>th</sup> February, 2009

5<sup>th</sup> Draft: 3<sup>rd</sup> March, 2009

6<sup>th</sup> Draft: 13<sup>th</sup> March, 2009

# **BILL**

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 President and Parliament of Zimbabwe.

## **PART I**

### **PRELIMINARY**

#### **1 Short title**

This Act may be cited as the Finance Act, 2009.

PART II  
INCOME TAX

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

**2 Amendment of section 4 of Cap. 23:04**

With effect from the 1<sup>st</sup> January, 2009, section 4 (“Interpretation in Chapter I”) (1) of the Finance Act [*Chapter 23:04*] is amended by the insertion of the following definitions—

““Exchange Control (General) Order” means the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment that may be substituted for the same;

“foreign currency” means the euro, United States dollar, British pound, South African rand, Botswana pula and any other foreign currency denominated under the Exchange Control (General) Order;

“taxable income from trade or investment received or accrued in foreign currency” means taxable income from trade or investment is received or accrued in United States dollars or, if such income is denominated in a foreign currency other than the United States dollar, the equivalent amount in United States dollars, being an amount obtained by applying the international cross rate of exchange of that currency for the United States dollar prevailing on the day the income is received or accrued;

“taxable income from employment earned in foreign currency” means taxable income from employment earned in United States dollars or, if such income is denominated is in a foreign currency other than the United States dollar, the equivalent amount in United States dollars, being an amount obtained by applying the international cross rate of exchange of that currency for the United States dollar prevailing on the day the income is earned;”.

**3 New section inserted in Part I of Chapter I of Cap. 23:04**

(1) The Finance Act [*Chapter 23:04*] is amended in Part I of Chapter I by the insertion of the following section after section 4—

“4A Payment of certain taxes in foreign currency

(1) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*]—

- (a) a person other than a company, a trust or a pension fund whose taxable income from employment is earned in whole or in part in a foreign currency shall pay tax in the same or another specified foreign currency on so much of that income as is earned in that currency;
- (b) a person other than a company, a trust or a pension fund whose taxable income from trade or investment is received or accrued in whole or in part in a foreign currency shall pay tax in the same or another specified foreign currency on so much of that income as is received or accrued in that currency;

- (c) a company, trust, pension fund or other juristic person whose taxable income is earned, received or accrued in whole or in part in a foreign currency shall pay tax in the same or another specified foreign currency on so much of that income as is earned, received or accrued in that currency;
- (d) a person who is liable to presumptive tax as an operator of a taxicab, omnibus, goods vehicle, driving school or hairdressing salon, or as an informal cross-border trader, in terms of section 22C (c), (d), (e), (f), (g), (h), (i), (j) or (k), shall pay that presumptive tax in a foreign currency;
- (e) the persons specified in section 22E and 22H shall pay the taxes there mentioned in a foreign currency;
- (f) the persons specified in section 15, 17, 18, 19, 20, 21, 22, 22A, 22B, 22F, 22G, 22I and 22J shall pay the taxes there mentioned in a foreign currency to the extent that the amounts from which the taxes are withheld are foreign currency amounts.

(2) Where only part of the taxable income from employment of a person referred to in subsection (1)(a) is paid in a foreign currency, the amounts of any tax due on both parts of such income in terms of section 14 shall be calculated separately and paid in the appropriate currency relative to each part.

(3) Where a person referred to in subsection (1)(a) earns any part of his or her taxable income in the form of a coupon or any instrument or token that, in the opinion of the Commissioner, is exchangeable, whether directly or indirectly, for foreign currency, that person shall pay an amount of tax to the Commissioner in foreign currency calculated on a valuation of that coupon, instrument or token which, in the opinion of the Commissioner, represents a fair valuation of that coupon, instrument or token in foreign currency.

(4) For the purposes of subsection (3) the Commissioner may, in the case of any coupon, instrument or token denominated in units of weight, volume or other measure of a specified commodity, specify from time to time by notice in the *Gazette* that a unit by weight, volume or other measure of that commodity shall be deemed to be worth a specified amount of a foreign currency.

(5) If the Commissioner has reasonable grounds to believe that the whole or any part of the income of a person referred to in subsection (1)(b) or (c) was received or accrued in the form of foreign currency, or that any amount referred to in subsection (1)(f) from which a person withholds tax is a foreign currency amount, and that the person—

- (a) has prepared or maintained or authorised the preparation or maintenance of any false books of account or other records, or falsified or authorised the falsification of any books of account or records; or
- (b) has furnished a false return or information;

with the effect that liability for payment of any tax in foreign currency is avoided or postponed, the Commissioner may deem that—

- (c) the whole of such person's income from trade or investment is received or accrued in foreign currency; or
- (d) the whole of the amount from which the person withholds tax is a foreign currency amount;

as the case may be, unless, in respect of any particular transaction, such person proves to the satisfaction of the Commissioner that the income received or accrued in respect of that transaction was received or accrued in Zimbabwean currency, or that the amount in question is a Zimbabwean currency amount.

(6) The liability of a person referred to in subsection (1)(b) or (c) to pay any tax in foreign currency is not affected by that person's failure to comply with any law (including but not limited to the Shop Licences Act [*Chapter 14:17*] and the Exchange Control Act [*Chapter 22:05*]) requiring the registration or licensing of the trade, investment or other activity by means of which his or her income is received or accrued.

(7) For the avoidance of doubt it is declared that all the provisions of the Taxes Act shall apply, with such changes as may be necessary, to the payment in foreign currency of the taxes referred to in subsection (1)(a), (b), (c), (d), (e) and (f) in the same way as they apply to the payment of such taxes in Zimbabwean currency.

In particular—

- (a) section 37B, relating to the duty to keep records, shall apply so that records of those transactions involving payments in foreign currency—
  - (i) are clearly distinguished from records of transactions involving Zimbabwean currency; and
  - (ii) employ the foreign currency concerned as the unit of account in relation to those transactions involving payments in that foreign currency;
- (b) section 48 of the Taxes Act, relating to reduced assessments and refunds, shall apply so that any part of a tax paid in foreign currency that is required to be refunded shall be refunded in foreign currency;
- (c) section 71, providing (among other things) for the payment of interest on unpaid tax, shall apply so that any interest due on any part of a tax payable in foreign currency that is unpaid, shall be paid in foreign currency.

(8) The Commissioner may require any person referred to in subsection (1)(c), (d), (e) or (f) who tenders payment of any tax in a foreign currency other than the United States dollar, to tender instead the equivalent amount of that tax or duty in United States dollars, being an amount obtained by applying the international cross rate of exchange of the first-mentioned currency for the United States dollar prevailing on the day the tax concerned becomes due.”

(2) Section 4A of the Finance Act [*Chapter 23:04*] inserted by this Act takes effect from the 1<sup>st</sup> January, 2009, except for subsection (1)(a) thereof, which takes effect from the 1<sup>st</sup> February, 2009.

(3) For all accounting and taxation purposes, where—

- (a) an individual or partnership whose taxable income from trade or investment was received or accrued in whole or in part in Zimbabwean currency; or
- (b) a company, trust, pension fund or other juristic person whose taxable income is earned, received or accrued in whole or in part in Zimbabwean currency;

then—

- (c) the final balances denominated in Zimbabwean currency determined in financial statements prepared in respect of the previous financial year of the individual, partnership, company, trust, pension fund or other juristic person shall be expressed in terms of the new currency system; as defined in Statutory Instrument 6 of 2009, and
- (d) the final balances determined in accordance with paragraph (c) shall be regarded as initial balances for financial statements prepared in respect of the new financial year;

(4) An individual, partnership, company, trust, pension fund or other juristic person referred to in subsection (3) shall, to the extent that their taxable income is received or accrued in foreign currency, express any final balances relating to that income which is denominated in Zimbabwean currency in United States dollars at the rate of twenty Zimbabwe dollars of the new currency system (as defined in Statutory Instrument 6 of 2009) for one United States dollar.

#### **4 Amendment of section 5 of Cap. 23:04**

Section 5 (“Credits to which section 7 of Taxes Act relates”) of the Finance Act [*Chapter 23:04*] is amended by the insertion of the following subsection after subsection (3)—

“(4) The credits to be deducted from the tax with which a person is chargeable in pursuance of section 7 of the Taxes Act shall be expressed as amounts in United States dollars:

Provided that where the tax with which a person is chargeable in pursuance of section 7 of the Taxes Act is not payable wholly or in part in foreign currency, the amount of the appropriate credit shall be converted to Zimbabwean dollars using the Reserve Bank exporters’ surrender rate.

In this proviso, “Reserve Bank exporters’ surrender rate” means the rate at which the Reserve Bank of Zimbabwe exchanges the United States dollar for the Zimbabwe dollar in favour of an exporting business organisation that is required to surrender to the Bank any part of its export earnings in United States dollars for Zimbabwe dollars.”.

#### **5 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 repeal of paragraph (a) and the substitution of—
  - (i) the following, with effect from the period beginning on the 1<sup>st</sup> November, 2008, and ending the 30th. November, 2008, of the year of assessment beginning on the 1st. January, 2008—

- “(a) in the case of a person other than a company, a trust or a pension fund, at the specified percentage of each dollar of each of the following parts of his or her taxable income from employment—
- (i) so much as does not exceed thirty five million dollars;
  - (ii) so much as exceeds thirty five million dollars but does not exceed one hundred million dollars;
  - (iii) so much as exceeds one hundred million dollars but does not exceed two hundred million dollars;
  - (iv) so much as exceeds two hundred million dollars but does not exceed four hundred million dollars;
  - (v) so much as exceeds four hundred million dollars but does not exceed seven hundred million dollars;
  - (vi) so much as exceeds seven hundred million dollars but does not exceed one billion dollars;
  - (vii) so much as exceeds one billion dollars;”;
- (ii) the following, with effect from the period beginning on the 1<sup>st</sup> December, 2008, and ending the 31<sup>st</sup> December, 2008, of the year of assessment beginning on the 1<sup>st</sup> January, 2008—
- “(a) in the case of a person other than a company, a trust or a pension fund, at the specified percentage of each dollar of each of the following parts of his or her taxable income from employment—
- (i) so much as does not exceed six billion five hundred million dollars;
  - (ii) so much as exceeds six billion five hundred million dollars but does not exceed twenty billion dollars;
  - (iii) so much as exceeds twenty billion dollars but does not exceed forty billion dollars;
  - (iv) so much as exceeds forty billion dollars but does not exceed eighty billion dollars;
  - (v) so much as exceeds eighty billion dollars but does not exceed one hundred and forty billion dollars;
  - (vi) so much as exceeds one hundred and forty billion dollars but does not exceed two hundred and twenty billion dollars;
  - (vii) so much as exceeds two hundred and twenty billion dollars;”;
- (iii) the following, with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, and ending on the 31<sup>st</sup> January, 2009—
- “(a) in the case of a person other than a company, a trust or a pension fund, at the specified percentage of each dollar of each of the following parts of his or her taxable income from employment—

- (i) so much as does not exceed seven trillion five hundred billion dollars;
  - (ii) so much as exceeds seven trillion five hundred billion dollars but does not exceed twenty-five trillion dollars;
  - (iii) so much as exceeds twenty-five trillion dollars but does not exceed six fifty trillion dollars;
  - (iv) so much as exceeds fifty trillion dollars but does not exceed one quadrillion one hundred trillion dollars;
  - (v) so much as exceeds one hundred trillion dollars but does not exceed one hundred and sixty trillion dollars;
  - (vi) so much as exceeds one hundred and sixty trillion dollars but does not exceed two hundred and fifty trillion dollars;
  - (vii) so much as exceeds two hundred and fifty trillion dollars;”;
- (iv) the following (as denominated in the new currency as defined in Statutory Instrument 4 of 2009), with effect from the year of assessment beginning on the 1<sup>st</sup> February, 2009, and ending on the 31<sup>st</sup> December, 2009—
- “(a) in the case of a person other than a company, a trust or a pension fund, at the specified percentage of each dollar of each of the following parts of his or her taxable income from employment—
- (i) so much as does not exceed one thousand nine hundred and eighty dollars;
  - (ii) so much as exceeds one thousand nine hundred and eighty dollars but does not exceed six thousand six hundred dollars;
  - (iii) so much as exceeds six thousand six hundred but does not exceed thirteen thousand two hundred dollars;
  - (iv) so much as exceeds thirteen thousand two hundred dollars but does not exceed twenty-six thousand four hundred dollars;
  - (v) so much as exceeds twenty-six thousand four hundred dollars but does not exceed forty-one thousand eight hundred dollars;
  - (vi) so much as exceeds forty-one thousand eight hundred dollars but does not exceed sixty-six thousand dollars;
  - (vii) so much as exceeds sixty-six thousand dollars;”;
- (b) with effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (a)—
- “(a1) in the case of a person other than a company, a trust or a pension fund, at the specified percentage of each dollar of each of the following parts of his or her taxable income from employment earned in foreign currency —

- (i) so much as does not exceed one thousand three hundred and seventy-five United States dollars;
  - (ii) so much as exceeds one thousand three hundred and seventy-six United States dollars but does not exceed five thousand five hundred United States dollars;
  - (iii) so much as exceeds five thousand five hundred and one United States dollars but does not exceed eleven thousand United States dollars;
  - (iv) so much as exceeds eleven thousand and one United States dollars but does not exceed sixteen thousand five hundred United States dollars;
  - (v) so much as exceeds sixteen thousand five hundred and one United States dollars but does not exceed thirty-three thousand United States dollars;
  - (vi) so much as exceeds thirty-three thousand and one United States dollars;”.
- (c) with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (b)—
- “(b1) in the case of a person other than a company, a trust or a pension fund, at the specified percentage of each dollar of his or her taxable income from trade or investment earned in foreign currency, other than income referred to in paragraph (e), (f), (g), (h) or (i);”;
- (d) with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (c)—
- “(c1) in the case of a company or a trust, other than a pension fund, at the specified percentage of each dollar of its taxable income earned in foreign currency, other than income referred to in paragraph (e), (f), (g), (h) or (i);”;
- (e) with effect the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (d)—
- “(d1) in the case of a pension fund, at the specified percentage of each dollar of its taxable income earned in foreign currency from trade or investment;
- Provided that this paragraph shall not apply in respect of any period before the date specified in terms of subparagraph (i) of paragraph 2 of the Third Schedule to the Taxes Act;”;
- (f) with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (e)—
- “(e1) in respect of that part of the taxable income earned in foreign currency of a licensed investor which is attributable to the operations to which his investment licence relates, at the specified percentage of each dollar of that taxable income;”;
- (g) with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (f)—

- “(ff) in respect of that part of the taxable income earned in foreign currency of the holder of a special mining lease which is attributable to special mining lease operations as defined in the Taxes Act, determined in accordance with the Twenty-Second Schedule to that Act, at the specified percentage of each dollar of that income;”;
- (h) with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (f1)—
- “(f2) in respect of that part of the taxable income earned in foreign currency of a company or a trust derived from mining operations, at the specified percentage of each dollar of such part of its taxable income;”;
- (i) with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (g)—
- “(g1) in respect of that part of the taxable income earned in foreign currency of a contractor under an approved BOOT or BOT arrangement which is attributable to his or her operations under the arrangement—
- (i) for the first five years after the commencement of the arrangement, at the percentage of each dollar of that income specified in Part II of the Schedule in respect of those years;
- (ii) for the second five-year period after the commencement of the arrangement, at the percentage of each dollar of that income specified in Part II of the Schedule in respect of that period;
- (iii) thereafter, at the specified percentage applicable to persons referred to in paragraph (b1) or (c1), as the case may be;”;
- (j) with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (h)—
- “(h1) in respect of that part of the income earned in foreign currency of an industrial park developer which is attributable to the operation of his or her industrial park, at the specified percentage of each dollar of that income;”;
- (k) with effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the insertion of the following paragraph after paragraph (i)—
- “(i1) in respect of that part of the taxable income earned in foreign currency of the operator of a tourist facility in an approved tourist development zone which is attributable to his operation of that facility, at the specified percentage of each dollar of that income.”.

## 6 Amendment of section 22C of Cap. 23:04

With effect from the 1<sup>st</sup> January, 2009, in year of assessment beginning on the 1<sup>st</sup> January, 2009, section 22C (“Presumptive tax”) of the Finance Act [*Chapter 23:04*] is amended by the repeal of paragraphs (c) to (j) and the substitution of—

- “(c) operators of **taxicabs** for the carriage of passengers for hire or reward having seating accommodation for not more than seven passengers, **one hundred United States dollars per quarter** 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, **one hundred and fifty United States dollars** per quarter 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, **two hundred United States dollars** per quarter 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, **four hundred United States dollars** per quarter 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**, **six hundred and fifty United States dollars** per quarter 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, one thousand United States dollars per quarter;
  - (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, two thousand five hundred United States dollars per quarter;
  - (iii) of twenty tonnes or more, two thousand five hundred United States dollars per quarter;
- or
- (i) operators of driving schools providing driving tuition—
- (i) for class 4 vehicles only, five hundred United States dollars per vehicle per quarter;
  - (ii) for class 1 and 2 vehicles (whether or not in addition to providing driving tuition for other classes of vehicles), six hundred United States dollars per vehicle per quarter;
- or
- (j) operators of hairdressing salons, one thousand five hundred United States dollars per quarter; or”.

## **7 Amendment of section 22E of Cap. 23:04**

With effect from the 30<sup>th</sup> January, 2009, section 22E (“Carbon tax”) of the Finance Act [*Chapter 23:04*] is amended—

- (a) by the repeal of subsection (1) and the substitution of—

“(1) The carbon tax chargeable in terms of section 36E of the Taxes Act shall be paid at the rate of three United States cents per litre of petroleum product, or five *per centum* of the cost, insurance, freight value (as defined in the Customs and Excise Act [Chapter 23:02]) of petroleum product, whichever is the greater amount, imported by—

- (a) the State oil procurement entity or other person or entity importing petroleum product for his or her own consumption; or
  - (b) any person licensed by the Minister responsible for energy to import the petroleum product in bulk.”;
- (b) in subsection (2) by the deletion of “notwithstanding section 41 of the Reserve Bank Act [Chapter 22:15] and the Exchange Control Act [Chapter 22:05],”.

### **8 New section substituted for section 22H of Cap. 23:04**

With effect from the 30<sup>th</sup> January, 2009, section 22H of the Finance Act [Chapter 23:04] is repealed and the following is substituted—

#### “22H NOCZIM debt redemption levy

The NOCZIM debt redemption levy chargeable in terms of section 36H of the Taxes Act shall be calculated at the rate of three United States cents per litre of petroleum product, or five *per centum* of the cost, insurance, freight value (as defined in the Customs and Excise Act [Chapter 23:02]) of petroleum product, whichever is the greater amount—

- (a) purchased by an oil company from NOCZIM; or
- (b) imported by any person licensed by the Minister responsible for energy to import the petroleum product in bulk.”.

### **9 New section inserted in Cap. 23:04**

With effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009, Part III of Chapter I of the Finance Act [Chapter 23:04] is amended by the insertion after section 22J of the following section—

#### “22 K Miscellaneous income deposit tax

The miscellaneous income deposit tax chargeable in terms of section 36 K of the Taxes Act shall be calculated at the rate of twenty *per centum* of each dollar of the deposit from which such tax is to be paid in terms of the Thirty-Fifth Schedule to that Act.”.

### **10 Amendment of Schedule to Chapter I of Cap. 23:04**

With effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009, the Schedule (“Credits and Rates of Income Tax”) to Chapter I of the Finance Act [Chapter 23:04] is amended—

- (a) by the repeal of Part I and the substitution of—

“PART I  
CREDITS

<i>Section</i>	<i>Nature of credit</i>	<i>Specified amount</i> \$
10	Credit for taxpayers over 55 years of age .....	US\$900
11	Blind persons credit .....	US\$900
13	Mentally or physically disabled persons credit .....	US\$900

- (b) in Part II by the deletion of the items relating to the level of taxable income earned in the period beginning on the 1<sup>st</sup> November, 2008, and ending on the 31<sup>st</sup> December, 2008, and the substitution of—

<i>“Section</i>	<i>Level of taxable income 1/11/08-30/11/08</i>	<i>Specified percentage</i> %
14(2)(a)(i)	Up to \$35 000 000.....	0
14(2)(a)(ii)	\$35 000 001 to \$100 000 000.....	25
14(2)(a)(iii)	\$100 000 001 to \$200 000 000.....	30
14(2)(a)(iv)	\$200 000 001 to \$400 000 000.....	35
14(2)(a)(v)	\$400 000 001 to \$700 000 000.....	40
14(2)(a)(vi)	\$700 000 001 to \$1000 000 000.....	45
14(2)(a)(vii)	\$1000 000 001 and more .....	47,5”.

  

<i>Section</i>	<i>Level of taxable income 1/12/08-31/12/08</i>	<i>Specified percentage</i> %
14(2)(a)(i)	Up to \$6 500 000 000.....	0
14(2)(a)(ii)	\$6 500 000 001 to \$20 000 000 000.....	25
14(2)(a)(iii)	\$20 000 000 001 to \$40 000 000 000.....	30
14(2)(a)(iv)	\$40 000 000 001 to \$80 000 000 000.....	35
14(2)(a)(v)	\$80 000 000 001 to \$140 000 000 000.....	40
14(2)(a)(vi)	\$140 000 000 001 to \$220 000 000 000.....	45
14(2)(a)(vii)	\$220 000 000 001 and more .....	47,5”.

  

<i>Section</i>	<i>Level of taxable income 1/1/09-31/1/09</i>	<i>Specified percentage</i> %
14(2)(a)(i)	Up to \$7 500 000 000 000.....	0

14(2)(a)(ii)	\$7 500 000 000 001 to \$25 000 000 000 000.....	25
14(2)(a)(iii)	\$25 000 000 000 001 to \$50 000 000 000 000.....	30
14(2)(a)(iv)	\$50 000 000 000 001 to \$100 000 000 000 000.....	35
14(2)(a)(v)	\$100 000 000 000 001 to \$160 000 000 000 000.....	40
14(2)(a)(vi)	\$160 000 000 000 001 to \$250 000 000 000 000.....	45
14(2)(a)(vii)	\$250 000 000 000 001 and more .....	47,5”.

<i>Section</i>	<i>Level of taxable income 1/2/09-31/12/09</i>	<i>Specified percentage %</i>
14(2)(a)(i)	Up to \$1 980.....	0
14(2)(a)(ii)	\$1 981 to \$6 600.....	25
14(2)(a)(iii)	\$6601 to \$13 200.....	30
14(2)(a)(iv)	\$13 201 to \$26 400.....	35
14(2)(a)(v)	\$26 401 to \$41 800.....	40
14(2)(a)(vi)	\$41 801 to \$66 000.....	45
14(2)(a)(vii)	\$66 001 and more.....	47,5”.

(c) by the insertion of the following Part after Part II—

“PART III

RATES OF INCOME TAX ON TAXABLE INCOME EARNED IN FOREIGN CURRENCY

<i>“Section</i>	<i>Level of taxable income 1/2/09-31/12/09</i>	<i>Specified percentage %</i>
14(2)(a1)(i)	Up to US \$1375 .....	0
14(2)(a1)(ii)	US \$1376 to US \$5500 .....	20
14(2)(a1)(iii)	US \$5501 to US \$11 000 .....	25
14(2)(a1)(iv)	US \$11 001 to US \$16 500 .....	30
14(2)(a1)(v)	US \$16 501 to US \$33 000 .....	35
14(2)(a1)(vi)	US \$33 001 and more.....	37,5
14(2)(b1)	Taxable income of individual from trade or investment.....	30
14(2)(c1)	Taxable income of company or trust .....	30
14(2)(d1)	Taxable income of pension fund from trade or investment .....	15
14(2)(e1)	Taxable income of licensed investor (before the end of the fifth year of his or her operations as such) .....	0

	Taxable income of licensed investor (after the fifth year of his or her operations as such) .....	15
14(2)(f2)	Taxable income of holder of special mining lease.....	15
14(2)(f3)	Taxable income of company or trust derived from mining operations .....	15
14(2)(g1)	Taxable income of person engaged in approved BOOT or BOT arrangement : First five years of the arrangement .....	
	Second five years of the arrangement.....	15
14(2)(h1)	Taxable income of industrial park developer (after the fifth year of his operations as such).....	15
14(2)(i1)	Taxable income of operator of a tourist facility in approved tourist development zone (after the fifth year of his operation as such) .....	15
14(3a)	Taxable income of approved manufacturing company in growth point area .....	10.”

### **Is there a need to restate the highlighted amounts when there were no changes?**

#### **11 Amendment of Chapter IX (*bis*) of Cap. 23:04**

With effect from the 1<sup>st</sup> January, 2009, the Finance Act [*Chapter 23:04*] is amended in Chapter IX (“Rentals for State Land Allocated for Agricultural Purposes”) as inserted by the Finance Act, 2007 (No. 8 of 2007)—

- (a) by the deletion in the title to the Chapter of “CHAPTER IX” and the substitution of “CHAPTER X”;
- (b) in section 40 (“Interpretation in Chapter IX”) —
  - (i) by the deletion of the title and the substitution of “42 Interpretation in Chapter X”;
  - (ii) in the definition of “Natural Region” by the deletion of “section 3 the Rural Land (Farm Sizes) Regulations, 1999” and the substitution of “section 3 of the Rural Land (Farm Sizes) Regulations, 1999”
- (c) in section 41 (“Rentals payable in respect of Model A2 farms”) —
  - (i) by the deletion of the title and the substitution of “43 Rentals payable in respect of Model A2 farms”;
  - (ii) by the insertion of the following subsection after subsection (1)—
    - “(1a) Subsection (1) does not apply to the holder of an offer-letter who has not obtained vacant possession of the Model A2 farm to which the offer letter relates:

Provided that such holder shall be deemed to have obtained vacant possession of the farm concerned if the previous owner or occupier of the farm

has vacated it or no longer occupies it, whether or not the holder of the offer-letter actually occupies the farm himself or herself.”;

(iii) by the repeal of subsections (4) and (5) and the substitution of—

“(4) If the holder of an offer-letter —

- (a) obtains the offer letter after the date of commencement of the Finance Act, 2007; or
- (b) is not, on or at any time after the date of commencement of the Finance Act, 2007, liable to pay rentals because he or she has not obtained vacant possession of the Model A2 farm to which the offer letter relates;

the full rental shall be payable in respect of the quarter during which he or she obtains such letter or obtains vacant possession of the Model A2 farm, as the case may be.”;

(iv) in the proviso to subsection (7) by the deletion of “shall not be deemed to have been cancelled” and the substitution of “shall be deemed not to have been cancelled”;

(d) by the insertion of the following section after section 43—

**“44 Public assistance to Model A2 farmers conditional on full payment of rentals**

No lessee or holder of an offer-letter in respect of a Model A2 farm who is in arrears in paying any rental or portion thereof shall receive any financial assistance that is payable directly or indirectly from public funds for any purpose connected with his or her farming operations.”;

(e) by the repeal of the Schedule and the substitution of—

**“SCHEDULE TO CHAPTER X (Section 43)**

**RENTALS PAYABLE BY LESSEES AND OFFER-LETTER HOLDERS OF A2 FARMS**

<i>Natural Region</i>	<i>Rental</i>
1	US\$3 per hectare <i>per annum</i>
2	US\$3 per hectare <i>per annum</i>
2a	US\$3 per hectare <i>per annum</i>
2b	US\$3 per hectare <i>per annum</i>
3	US\$2 per hectare <i>per annum</i>
4	US\$1,50 per hectare <i>per annum</i>
5	US\$1,50 per hectare <i>per annum</i> .”.

## 12 New Chapter inserted in Cap. 23:04

With effect from the 1<sup>st</sup> February, 2009, the Finance Act [*Chapter 23:04*] is amended by the insertion of the following Chapter after Chapter X (“Customs and Excise”)—

### “CHAPTER XI

#### STATUTORY FEES AND CHARGES

#### “45 Interpretation in Chapter X

In this Chapter—

- ““charging enactment” means an enactment by or under which a statutory fee or charge is levied;
- “Exchange Control (General) Order” means the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment that may be substituted for the same;
- “foreign currency” means the euro, United States dollar, South African rand, Botswana pula and any other foreign currency denominated under the Exchange Control (General) Order;
- “Minister” means the Minister responsible for finance;
- “statutory fee or charge” means a fee or charge levied by or under a charging enactment for any service provided by the Government or a department of the Government, whether such fee or charge is notified by means of a statutory instrument or otherwise.

#### 46 Revision of statutory fees and charges initiated by Minister

(1) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*], or anything contained in the Exchange Control Act [*Chapter 22:05*] and any charging enactment, but subject to this section, statutory fees or charges may be levied in whole or in part in foreign currency, or may give the option to the payer to pay such fees or charges in Zimbabwean currency or foreign currency.

- (2) Notwithstanding anything contained in any charging enactment, the Minister may—
- (a) not more frequently than once in every calendar month, by notice in writing to every Head of Ministry responsible for any charging enactment, require that, by a specified date, being not less than seven days from the date of the Minister’s notice, each Head of Ministry—
    - (i) reviews every statutory charge or fee for the levy of which he or she is responsible; and
    - (ii) submits the result of such review to the Minister in writing, containing the relevant Ministry’s recommendations for any amendment of the statutory fees or charges for which it is responsible;

and

- (b) after considering the reviews submitted in terms of paragraph (a)(ii), determine which statutory fees or charges are to be amended and the nature or extent of such amendment:

Provided that if—

- (i) a responsible Ministry fails to submit a review of its statutory fees and charges within the period specified under subsection (2)(a), the Minister may proceed to determine which of its statutory fees or charges are to be amended and the nature or extent of such amendment;
- (ii) the amendment of any statutory fee or charge proposed by the Minister departs from the recommendations of the responsible Ministry contained in its review, the Minister shall inform the responsible Head of Ministry accordingly, giving his or her reasons for the departure and affording the Head of Ministry an opportunity to make written representations on the matter within forty-eight hours;

and

- (c) after considering any representations, if any, made in terms of the proviso to paragraph (b), issue a statutory instrument in terms of this Part containing a Schedule in two columns and specifying—
- (i) in the first column, every charging enactment by or under which a statutory fee or charge is to be amended, and the provision by or under which such statutory fee or charge is levied;
  - (ii) in the second column opposite thereto, the corresponding amendment of the statutory fee or charge in question.

(3) In conducting a review in terms of subsection (2)(a) or making a determination in terms of subsection (2)(b), the responsible Ministry or the Minister, as the case may be, shall balance the need of the responsible Ministry to recover its costs in providing the service in question and the affordability of the proposed statutory fee or charge to the general public.

#### 47 Revision of statutory fees and charges initiated by Heads of Ministries

The Head of a Ministry responsible for any charging enactment may at any time request the Minister to initiate a review of the relevant statutory fee or charge, and section 46 shall, with such changes as may be necessary, apply to a review thus initiated.”.

*Amendments to Income Tax Act [Chapter 23:06]*

### 13 Amendment of section 8 of Cap. 23:06

Section 8 (“Interpretation of terms relating to income tax”)(1) of the Income Tax Act [Chapter 23:06] is amended in the definition of “gross income” with effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009—

- (a) in paragraph (f) II—

- (i) in proviso (xiii) by the deletion of “and any subsequent year of assessment,” and the substitution of “and ending on the 31<sup>st</sup> January, 2009,”;
- (ii) by the insertion after proviso (xiii) of the following proviso—
  - “(xii) in the case of a motor vehicle, in respect of the period beginning on the 1<sup>st</sup> February, 2009, in year of assessment beginning on the 1<sup>st</sup> January, 2009, and any subsequent year of assessment, the cost to the employer shall be deemed to be the following—
    - (a) five hundred fifty United States dollars, in the case of a motor vehicle whose engine capacity does not exceed one thousand five hundred cubic centimetres;
    - (b) six hundred and sixty United States dollars, in the case of a motor vehicle whose capacity exceeds one thousand five hundred cubic centimetres but does not exceed two thousand cubic centimetres;
    - (c) eight hundred and eighty United States dollars, in the case of a motor vehicle whose capacity exceeds two thousand cubic centimetres but does not exceed three thousand cubic centimetres;
    - (d) one thousand one hundred United States dollars, in the case of a motor vehicle whose capacity exceeds three thousand cubic centimetres;

and such deemed cost shall be reduced proportionally where the period of use of the motor vehicle is less than the year of assessment:

Provided that where any deemed amount referred to in subparagraphs (a) to (d) accrues to a taxpayer whose remuneration is denominated solely in Zimbabwean dollars, the deemed amount will be converted to Zimbabwean dollars using the Reserve Bank exporters’ surrender rate.

In this proviso, “Reserve Bank exporters’ surrender rate” means the rate at which the Reserve Bank of Zimbabwe exchanges the United States dollar for the Zimbabwe dollar in favour of an exporting business organisation that is required to surrender to the Bank any part of its export earnings in United States dollars for Zimbabwe dollars;”.

#### **14 Amendment of section 15 of Cap. 23:06**

With effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, section 15 (“Deductions allowed in determination of taxable income”) of the Income Tax Act [*Chapter 23:06*] is amended in subsection (2)—

- (a) in paragraph (r1) by the deletion from the proviso of “twenty billion dollars” and the substitution of “one hundred thousand United States dollars”;
- (b) in paragraph (r2) by the deletion from the proviso of “twenty billion dollars” and the substitution of “one hundred thousand United States dollars”;

- (c) in paragraph (r3) by the deletion from the proviso of “twenty billion dollars” and the substitution of “one hundred thousand United States dollars”;
- (d) in paragraph (w) by the deletion of “seven billion five hundred million dollars” and the substitution of “two thousand five hundred United States dollars”.

**15 New section inserted after section 36J of Cap. 23:06**

With effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009, Part IV of the Income Tax Act [*Chapter 23:06*] is amended by the insertion after section 36J of the following section—

“36K Miscellaneous income deposit tax

There shall be charged, levied and collected throughout Zimbabwe for the benefit of the Consolidated Revenue Fund a withholding tax on miscellaneous income deposits with financial institutions in accordance with the Thirty-Fourth Schedule at the rate fixed from time to time in the charging Act.”.

**16 Substitution of section 37B of Cap. 23:06**

Section 37B of the Income Tax Act [*Chapter 23:06*] is repealed and the following is substituted—

“37B Duty to keep records

(1) Every person whose gross income does not consist solely of salary, wages or similar compensation for personal service, shall keep or cause to be kept in the English language, proper books and accounts of all his or her transactions and, unless otherwise authorised by a competent court or by the Commissioner, shall retain for a period of six years from the date of the last entry therein all ledgers, cash-books, journals, paid cheques, bank statements and deposit slips, stock sheets, invoices, and all other books of account relating to any trade carried on by him or her and recording the details from which his or her returns for the purposes of this Act were prepared.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.”.

**17 Amendment of section 80 of Cap. 23:06**

With effect from the 30<sup>th</sup> January in the year of assessment beginning on the 1<sup>st</sup> January, 2009, section 80 (“Withholding of amounts payable under contracts with State or statutory corporations”) (1) of the Income Tax Act [*Chapter 23:06*] is amended in the definition of “contract” by the insertion after “five hundred thousand dollars or more” of “or, where the contract is denominated in foreign currency, two hundred and fifty United States dollars or more”.

## **18 Amendment of section 81 of Cap. 23:06**

With effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, Part IV of the Income Tax Act [*Chapter 23:06*] is amended in section 81 (1) (“Offences: general”) by the repeal of paragraph (e).

## **19 New section inserted after section 97C of Cap. 23:06**

With effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009, the Income Tax Act [*Chapter 23:06*] is amended by the insertion after section 97C of the following section—

### “97D Credit where miscellaneous income deposit tax has been withheld

If any taxpayer who is a deposit-holder as defined in the Thirty-Fifth Schedule satisfies the Commissioner-General that—

- (a) any miscellaneous income deposit tax has been withheld in terms of that Schedule during the year of assessment and paid in accordance with that Schedule; and
- (b) he or she was unable, for any good reason, to furnish timeously in relation to that deposit proof of lawful of source of income as defined in the Thirty-Fourth Schedule;

such tax shall, if such proof of lawful of source of income is submitted together with his or her return, be allowed as a credit against income tax chargeable in terms of this Act, and the income tax so chargeable shall be reduced accordingly and any excess refunded.”.

## **20 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 4—
  - (i) with effect from the 1<sup>st</sup> February, 2009, in subparagraph (p)—
    - A. by the deletion of “one billion dollars” and the substitution of “one thousand United States dollars”;
    - B. in the proviso by the deletion of “ten billion dollars” and the substitution of “nine thousand United States dollars”;
  - (ii) with effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009, by the deletion in subparagraph (v) of “three billion dollars” and the substitution of “three thousand United States dollars”;
- (b) in paragraph 10(1), with effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009—
  - (i) by the deletion in subparagraph (n) of “three billion dollars” and the substitution of “three thousand United States dollars”;
  - (ii) by the deletion in subparagraph (o) of “three billion dollars” and the substitution of “three thousand United States dollars”.

## 21 Amendment of Fourth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, 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—

- (a) in paragraph 1 (“Interpretation”) in the definition of “staff housing” in subparagraph (1)—
  - (i) in subparagraph (o) by the insertion after “1<sup>st</sup> January, 2007,” of “but before the 1<sup>st</sup> January, 2009,”;
  - (ii) by the insertion after paragraph (o) of the following paragraph—
    - “(p) in the case of any such building the erection of which was commenced on or after the 1<sup>st</sup> January, 2009, any building comprising or incorporating any residential unit the cost of which exceeds twenty-five thousand United States dollars;”;
- (b) in paragraph 14 (“Limitation on cost of passenger motor vehicle”) in subparagraph (1)—
  - (i) in subparagraph (l) by the insertion after “1<sup>st</sup> January, 2007” of “, but before the 1<sup>st</sup> January, 2009”;
  - (ii) by the insertion after subparagraph (l) of the following subparagraph—
    - “(m) ten thousand United States dollars shall be disregarded, where the vehicle was purchased on or after the 1<sup>st</sup> January, 2009.”.

## 22 Amendment of Sixth Schedule to Cap. 23:06

With effect from the 1<sup>st</sup> February in the year of assessment beginning on the 1<sup>st</sup> January, 2009, the Sixth Schedule (“Deductions in Respect of Contributions to Benefit and Pension Funds and the Consolidated Revenue Fund”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 10 by the repeal of subparagraph (b) and the substitution of—
  - “(b) three thousand six hundred United States dollars;”;
- (b) in paragraph 14—
  - (i) in subparagraph (a) by the deletion of “eleven million five hundred thousand dollars” and the substitution of “three thousand six hundred United States dollars”;
  - (ii) in subparagraph (b) by the deletion of “eleven million five hundred thousand dollars” wherever it occurs and the substitution of “three thousand six hundred United States dollars”;
- (c) in paragraph 15 by the repeal of subparagraph (b) and the substitution of—
  - “(b) three thousand six hundred United States dollars;”;
- (d) in paragraph 16 by the repeal of subparagraph (b) and the substitution of—

- “(b) three thousand six hundred United States dollars;”;
- (e) in paragraph 17(2)—
- (i) in subparagraph (a) by the deletion of “eleven million five hundred thousand dollars” and the substitution of “three thousand six hundred United States dollars”;
  - (ii) in subparagraph (b)—
    - A. by the deletion of “eleven million five hundred thousand dollars” and the substitution of “three thousand six hundred United States dollars”;
    - B. in subparagraph (ii)A by the deletion of “five million seven hundred and fifty thousand dollars” and the substitution of “one thousand eight hundred United States dollars”;
    - C. in the proviso by the repeal of paragraph (b) and the substitution of—
      - “(b) three thousand six hundred United States dollars;”;
- (f) in paragraph 18(2)—
- (i) by the deletion of “eleven million five hundred thousand dollars” and the substitution of “three thousand six hundred United States dollars”;
  - (ii) in the proviso by the repeal of paragraph (b) and the substitution of—
    - “(b) one thousand eight hundred United States dollars;”.

### **23 Amendment of Thirteenth Schedule to Cap. 23:06**

With effect from with effect from the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009, the Thirteenth Schedule (“Employees’ Tax”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 1 (“Interpretation”) (1) by the repeal of the definition of “Exchange Control (Exchange Rate) Direction”;
- (b) in paragraph 3 (“Employers to withhold tax”)—
  - (i) by the deletion of “within fifteen days, or within such longer period not exceeding twenty-one days as the Commissioner may for good cause allow, after the end of the month during which the amount was withheld or, in the case of a person who ceases to be an employer before the end of such month, within fifteen days after the day on which he ceases to be an employer” and the substitution of “on the third day of the month following, or within such longer period not exceeding seven days as the Commissioner may for good cause allow, after the end of the month during which the amount was withheld or, in the case of a person who ceases to be an employer before the end of such month, on the following day after the day on which he ceases to be an employer”;
  - (ii) by the repeal of paragraph (1a).

## 24 Substitution of Thirty-Fourth Schedule to Cap. 23:06

The Income Tax Act [*Chapter 23:06*] is amended by the repeal of the Thirty-Fourth Schedule and the substitution of—

### “THIRTY-FOURTH SCHEDULE (*Sections 36K and 97D*)

#### MISCELLANEOUS INCOME DEPOSIT TAX

##### *Interpretation*

1 In this Schedule—

“deposit” means a deposit of money with a financial institution, other than a deposit of money made in favour of a deposit holder by the State or a quasi-Government institution;

“deposit-holder” means a person who makes a deposit, or on whose behalf or for whose benefit a deposit is made, with a financial institution;

“depository financial institution” means the financial institution with which a deposit is made;

“financial institution” means—

- (a) any banking institution registered in terms of the Banking Act [*Chapter 24:20*] (No. 9 of 1999); or
- (b) any building society registered in terms of the Building Societies Act [*Chapter 24:02*]; or
- (c) the People’s Own Savings Bank of Zimbabwe established in terms of the People’s Own Savings Bank of Zimbabwe Act [*Chapter 24:22*] (No. 18 of 2000);
- (d) an asset manager as defined in the Asset Management Act [*Chapter 24:26*] (No. 16 of 2004);

“proof of lawful source of income” means, with reference to a deposit of—

- (a) employment income, a current verifiable pay slip relating to that deposit; or
- (b) a pension, annuity or disability payment, a certificate from a pension, annuity or provident fund or insurer relating to that deposit; or
- (c) trade, employment or investment income, or any other amount liable to tax under any enactment, a tax clearance certificate issued by ZIMRA in terms of section 34C of the Revenue Authority Act [*Chapter 23:11*] relating to that deposit, or to any future deposit of the class and made within the period specified by the tax clearance certificate; or
- (d) a sum of money by or on behalf of a person who is of or over the age of 55 years in respect of—

- (i) rental or investment income that is exempt from taxation in terms of the Income Tax Act [*Chapter* ]; or
- (ii) any pension, annuity or disability payment; or
- (iii) assistance for his or her living expenses by way of a remittance from a child or other relative of that person, whether from within or outside Zimbabwe;

an affidavit by that person to that effect sworn before a Commissioner of Oaths relating to that deposit;

- (e) in relation to a person under the age of 55 years who receives no income from trade, employment or investment but receives assistance for his or her living expenses in the form of a remittance from a a child or other relative of that person, whether from within or outside Zimbabwe, an affidavit by that child or relative to that effect sworn before a Commissioner of Oaths relating to that deposit;

“quasi-Governmental institution” means any person, whether corporate or unincorporated—

- (a) established directly by or under any enactment for special purposes specified in that enactment; or
- (b) wholly owned or controlled by the State that discharges statutory functions;

“tax” means miscellaneous income deposit tax;

“taxable deposit” means a deposit in respect of which no proof of lawful source of income has been produced to the depositary financial institution within the period specified in paragraph 2.

#### *Deposits liable to tax*

2.(1) Subject to subsection (2), every deposit made on or after the 1<sup>st</sup> February, 2009, in the year of assessment beginning on the 1<sup>st</sup> January, 2009, and any subsequent year of assessment, of or exceeding such other figure as the Minister shall, from time to time, prescribe for the purpose of this Schedule, that is made by or on behalf of or for the benefit of a deposit-holder, shall be liable to tax unless at the time when or no later than seven days after the date when the deposit is made the deposit-holder produces to the depositary financial institution proof of lawful source of income in relation to that deposit.

(2) No proof of lawful source of income shall be required in respect of any deposit made by or on behalf of a religious organisation, or private voluntary organisation registered in terms of the Private Voluntary Organisations Act [*Chapter17:05*], if the depositary financial institution is satisfied that the deposit is made in connection with the lawful purposes of such religious organisation or private voluntary organisation.

#### *Financial institutions to withhold tax*

3.(1) Every financial institution shall withhold tax from every taxable deposit and shall remit the amount so withheld to the Commissioner on the third day of the month following that on which the deposit is made:

Provided that if a deposit is made within seven days of the end of a calendar month, the period for remittance of the tax shall be extended to no later than the seventh day of the month following that on which the deposit is made.

(2) Where tax is withheld in terms of subparagraph (1), the financial institution concerned shall provide the deposit-holder with a certificate, in a form approved by the Commissioner, showing the amount of tax withheld.

*Returns to be furnished*

4. Payment of tax by a financial institution shall be accompanied by a return in the form prescribed.

*Penalty for non-payment of tax*

5.(1) Subject to subparagraph (2), a financial institution which fails to withhold from a taxable deposit or pay to the Commissioner any amount of tax so withheld as provided in paragraph 3 shall be personally liable for the payment to the Commissioner, not later than the date on which payment should have been made in terms of paragraph 3, of—

- (a) the amount of the tax which the financial institution failed to pay to the Commissioner; and
- (b) a further amount equal to such tax.

(2) The Commissioner, if he or she is satisfied in any particular case that the failure to pay to him or her tax was not due to any intent to evade the provisions of this Schedule, may waive the payment of the whole or such part as he or she thinks fit or repay the whole or such part as he or she thinks fit of the amount referred to in subparagraph (1)(b).

(3) If a defaulting financial institution referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the financial institution during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest.

*Refund of tax*

6. If it is proved to the satisfaction of the Commissioner that any deposit-holder who is not a taxpayer was unable, for any good reason, to furnish in relation to the deposit from which tax was withheld proof of lawful source of income within the period specified in paragraph 2, the Commissioner shall authorise a refund of such tax.

Provided that the Commissioner shall not authorise any refund in terms of this paragraph unless the claim therefor is made within thirty days of the date of payment of such tax.

*Retention of documentation submitted in proof of lawful source of income*

7.(1) Subject to subsection (1), every depositary financial institution shall retain all documentation submitted in proof of lawful source of income for a period of at least twelve

months from the end of the month in which any taxable deposit is made, and make such documentation available to the Commissioner on request:

(2) It shall not be necessary for a depositary financial institution to retain, or make or take copies of, any pay slip referred to in paragraph (a) of the definition “proof of lawful source of income” in paragraph 2, but in that event the institution shall keep a written record of—

- (a) the name and contact details of every deposit-holder who produces a pay slip in proof of lawful source of income; and
- (b) the amount and date of the deposit to which that pay slip relates;

and subsection (1) shall apply to such record as if it were documentation submitted in proof of lawful source of income.”.

### PART III

#### STAMP DUTY

#### **25 New section inserted in Chapter II of Cap. 23:04**

With effect from the 30<sup>th</sup> January, 2009, the Finance Act [*Chapter 23:04*] is amended in Chapter II by the insertion of the following section after section 24—

##### “24A Payment of certain stamp duties in foreign currency

(1) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], the stamp duty payable on—

- (a) the registration in a Deeds Registry of the acquisition of immovable property that was acquired in foreign currency;
- (b) any mortgage bond or notarial bond, or any cession or substitution of debtor in respect thereof referred to in item 1 of the Schedule, that is denominated in a foreign currency;
- (c) any broker’s note referred to in item 2 of the Schedule that is denominated in a foreign currency;
- (d) any off-market share transfer instrument referred to in item 2A of the Schedule that is denominated in a foreign currency;
- (e) any cheque referred to in item 3 of the Schedule;
- (f) any policy of insurance referred to in item 4 that is denominated in a foreign currency;

shall be payable in the same or another specified foreign currency.

(2) If the Registrar of Deeds has reasonable grounds to believe that—

- (a) the whole or any part of the consideration payable by the person who has acquired immovable property is payable in the form of foreign currency; or
- (b) the transaction underlying any of the following instruments, namely—

- (i) a mortgage bond or notarial bond, or any cession or substitution of debtor in respect thereof; or
- (ii) a broker's note; or
- (iii) an off-market share transfer instrument; or
- (iv) a policy of insurance;

involved the payment of a foreign currency, whether in whole or in part;

and the person, in supplying information, producing documents or making a declaration, required under or by virtue of the principal Act—

- (c) fails to disclose any material fact relevant to the nature of the transaction by which property has been acquired or to the consideration payable in respect of any property or to the value on which duty is payable; or
- (d) makes a false statement; or
- (e) falsifies or authorises the falsification of any document;

with the effect that liability for payment of any stamp duty in foreign currency is avoided or postponed, the Registrar of Deeds may determine the fair value of the immovable or other property in question in United States dollars, and thereupon the duty shall be calculated in accordance with the fair value as so determined.

(3) For the avoidance of doubt it is declared that all the provisions of the principal Act shall apply, with such changes as may be necessary, to the payment in foreign currency of stamp duty, in the same way as they apply to the payment of such duty in Zimbabwean currency.

(4) The Registrar of Deeds may require any person who tenders payment of stamp duty in a foreign currency other than the United States dollar, to tender instead the equivalent amount of that duty in United States dollars, being an amount obtained by applying the international cross rate of exchange of the first-mentioned currency for the United States dollar prevailing on the day the stamp duty concerned becomes due.”.

## **26 Amendment of section 5 of Cap. 23:04**

With effect from the 30<sup>th</sup> January, 2009, section 5 (“Duties prescribed”) the Finance Act [*Chapter 23:04*] by the insertion of the following subsection, the existing section becoming subsection (1)—

“(2) Where the transaction underlying any of the following instruments, namely—

- (a) a mortgage bond or notarial bond, or any cession or substitution of debtor in respect thereof; or
- (b) a broker's note; or
- (c) an off-market share transfer instrument; or
- (d) a policy of insurance;

involves the payment of Zimbabwean currency, whether in whole or in part, the stamp duty prescribed in the Schedule that is payable on the Zimbabwe dollar component of that transaction shall be converted from United States dollars at the rate of twenty Zimbabwe dollars to one United States dollar, or at such other rate as the Minister may, by notice in a statutory instrument, prescribe.”.

## 27 Amendment of Schedule to Chapter II of Cap. 23:04

With effect from the 1<sup>st</sup> January, 2009, the Schedule (“Stamp Duty on Instruments and other Matters”) to Chapter II of the Finance Act [*Chapter 23:04*] is repealed and substituted by the following—

### “SCHEDULE TO CHAPTER II (Section 25)

#### STAMP DUTY ON INSTRUMENTS AND OTHER MATTERS

#### ARRANGEMENT OF ITEMS

*Item*

1. Bonds.
2. Brokers’ Notes.
3. Off-Market share transfer instruments.
4. Cheques.
5. Policies of Insurance.
6. Registration in the Deeds Registry of the Acquisition of Immovable Property.

#### Item 1. BONDS

	US \$	c
Any mortgage bond or notarial bond, or any cession or substitution of debtor in respect thereof—		
for every \$100 or part thereof of the debt secured or to be secured	0	40

Exemptions to Item:

- (a) Any sum separately secured by a bond to cover any costs incurred in connection with the debt.
- (b) Any bond which is auxiliary or collateral to, or substituted for, a previously made and duly stamped bond executed by the same person and for the same debt or obligation.
- (c) Any bond which is executed by way of suretyship only, where there exists a duly stamped bond for the same debt or obligation executed by the principal debtor or obligor.
- (d) Any cession or substitution of debtor in respect of a bond mentioned in exemption (b), not being a substituted bond.
- (e) Any cession or substitution of debtor in respect of a bond mentioned in exemption (c).

#### Item 2. BROKERS’ NOTES

	US \$	c
(1) In respect of the purchase of any marketable security—		
for every \$100 or part thereof of the consideration	2	00
(2) In respect of the purchase or sale of any movable property other than a marketable security—		
for every \$100 or part thereof of the consideration	0	10
(3) In respect of the purchase or sale of any immovable property	1	00

Exemptions to Item:

- (a) A broker's note where the value of the consideration does not exceed \$20.
- (b) A broker's note in respect of any public loan raised by the State or a local authority.
- (c) A broker's note in respect of any marketable security issued by a statutory body as defined in section 2 of the Audit and Exchequer Act [*Chapter 22:03*] or by a local authority or building society.

**Item 3. OFF-MARKET SHARE TRANSFER INSTRUMENTS**

	US \$	c
Any off-market share transfer instrument referred to in section 17A of the principal Act	2	00

**Item 4. CHEQUES**

	US \$	c
Any cheque as defined in section 72 of the Bills of Exchange Act [ <i>Chapter 14:02</i> ]	0	5

Exemptions to Item:

- (a) A cheque drawn by any employee of the State for the purpose of the State.
- (b) A draft or order by any banker on another banker which is not available for payment or credit to any third person and is used solely for settling or clearing accounts between such bankers.

**Item 5. POLICIES OF INSURANCE**

[	US \$	c
(1) Any policy or certificate of insurance or renewal thereof or any other document which is in the form of a guarantee, fidelity, security or surety bond and is signed by an insurance company or by any person transacting business on behalf of brokers or underwriters at Lloyd's (in this paragraph called a policy), where such policy is not otherwise provided for in this Item—		
for every dollar or part thereof of the premium payable for the period for which the policy is issued or renewed or, if the policy is not renewable, of each and every premium payable		5
Maximum	100 000	
Minimum		
(a) if the policy is not renewable and the period of the policy—		
(i) does not exceed 31 days	0	50
(ii) exceeds 31 days	2	00
(b) if the policy is renewable and the period of the policy or the renewal thereof—		
(i) exceeds 31 days	0	50
(ii) exceeds 31 days, for every year or part of a year for which the policy is issued or renewed	2	00
(2) Any ticket, coupon, notice, bill or other document purporting to be an insurance or to	5% of the annual	receipts from the

entitle a person to insurance in the event of death, accident, sickness or the like		sale or issue for valuable consideration of any such documents
(3) Any policy or certificate of insurance of any crop in respect of damage or destruction by hail	5	00
(4) Any policy or certificate of marine insurance executed outside Zimbabwe, or any renewal thereof	5	00
(5) Any interim policy of insurance the currency of which does not exceed four calendar months Provided that the duty on any such interim policy shall not exceed that payable upon a final policy covering a like risk	3	00
(6) Any endorsement made after the issue of a policy shall be stamped as a new policy if the effect of such endorsement is— (a) to substitute some other person for the person insured; or (b) to substitute some other matter or thing for the matter or thing which is the subject of the policy; or (c) to increase the amount of the insurance; or (d) to make a material alteration to the subject matter of the policy Provided that in the case of a policy such as is described in paragraph (1), duty shall be payable in terms of this paragraph only in respect of any increase in the premium payable in terms of such endorsement Exemptions to Item (a) A policy of life insurance, including a funeral policy (b) A policy, bond or document which assures an annuity or a pension on retirement (c) An interim cover note issued in respect of a policy of insurance to be issued within Zimbabwe (d) A policy or instrument issued solely for the purpose of effecting re-insurance by one insurance company or association in respect of another insurance company or association (e) A certificate of insurance relating to a duly stamped policy of insurance (f) A policy or instrument issued solely for the purpose of a bond or guarantee executed in terms of the Customs and Excise Act [ <i>Chapter 23:02</i> ].		

**Item 6. REGISTRATION IN THE DEEDS REGISTRY OF THE ACQUISITION OF IMMOVABLE PROPERTY**

	\$	c
(1) For the registration in the Deeds Registry of any acquisition of property—		
(a) in respect of so much of the value of the property as does not exceed \$5 000—		
for every \$100 or part thereof of the value	0	70
(b) in respect of so much of the value of the property as exceeds \$5 000 but does not exceed \$15 000—		
for every \$100 or part thereof of the value	3	00
(c) in respect of so much of the value of the property as exceeds \$15 000 but does not exceed \$100 000		
for every \$100 or part thereof of the value	5	00
(d) in respect of so much of the value of the property as exceeds \$100 000—		
for every \$100 or part thereof of the value	6	00
	United States \$	c
(2) For the registration in the Deeds Registry of any acquisition of property that has been acquired with foreign currency—		
(a) in respect of so much of the value of the property as does not exceed 5 000 United States dollars—		
for every \$100 or part thereof of the value	1	00
(b) in respect of so much of the value of the property as exceeds \$5000 but does not exceed 20 000 United States dollars—		
for every \$100 or part thereof of the value	2	00
(c) in respect of so much of the value of the property as exceeds \$20 000 but does not exceed 100 000 United States dollars—		
for every \$100 or part thereof of the value	3	50
(d) in respect of so much of the value of the property as exceeds \$100 000 United States dollars—		
for every \$100 or part thereof of the value	4	00

**Exemptions to Item:**

- (a) An acquisition of property whereby no change of beneficial interest in the property acquired is effected:

Provided that this exemption shall not apply where property which has been transferred to an administrator in circumstances mentioned in exemption (i) is subsequently transferred to the person on whose behalf it has been held by the administrator, except where that person is an heir or legatee referred to in exemption (c).

- (b) An ecclesiastical, charitable or educational institution which is recognized in Zimbabwe as being of a public character and is approved by the Minister, in respect of property or any portion thereof acquired for a purpose which does not consist in the main of the acquisition of gain by the institution or any other person:

Provided that—

- (i) if, within ten years after the date of acquisition of the property, the property or any portion thereof is used for a purpose which consists in the main of the acquisition of gain by the institution or any other person, duty shall become due and payable on the fair value of such property or such portion thereof as determined by the Registrar of Deeds in terms of subsections (4) and (5) of section 23 of the principal Act, taking the date when the property or portion thereof was first so used as being the date of acquisition of the property. If, after that date, the duty is still unpaid, the Registrar of Deeds shall make a note on the title deeds to the property and in his register stating that transfer of the property is prohibited until the duty has been paid; and until the duty has been paid no transfer of the property shall be passed;
  - (ii) where the acquisition of immovable property by an ecclesiastical, charitable or educational institution was registered in the Deeds Registry prior to the 1st October, 1972, and that institution was exempted from the duty payable in terms of the Item then in force, proviso (i) shall apply in determining whether any duty shall become due and payable after the date of the registration of the acquisition of the immovable property.
- (c) An heir or legatee, or a tutor, curator or trustee acquiring for and in the name of an heir or legatee, in respect of property acquired by intestate or testamentary succession or as a result of a redistribution of the assets of a deceased estate in the process of liquidation.
- For the purposes of this paragraph—
- (i) “heir or legatee” does not include a person who is not—
    - A. a blood relation of either the deceased or his spouse; or
    - B. a legally adopted child of either the deceased or his spouse; or
    - C. the spouse of any relation or child referred to in subparagraph A or B;
  - (ii) the heir *ab intestato* of a person to whom customary law applies shall be determined in accordance with customary law;
- (d) A surviving spouse in respect of property acquired in any manner from the estate of the deceased spouse.
- (e) A joint owner of property in respect of the acquisition of a defined portion of the property allotted to him upon partition of the property, but not in respect of any consideration payable by him in order to equalize the partition or for any other reason.
- (f) A joint owner of property who acquires the sole ownership in the whole or a portion of the property, in respect of so much of the value of the property in which sole ownership is acquired as represents his share in the joint ownership of that property.
- (g) A registration to correct an error in the registration of the acquisition of any property, if the duty payable in respect of that acquisition has been duly paid.
- (h) A divorced spouse in respect of property awarded to such spouse by the divorce order.
- (i) A transfer of property in a deceased estate to an administrator where such property has, by will or by an order of court, been placed under the administration of such administrator.
- (j) A registration of property required as a result of the termination of the appointment of an administrator of a trust under a will or other written instrument or of a trustee of an insolvent estate.
- (k) A vesting of the property in an insolvent estate in the trustee of such estate or a restoration of such property by the trustee to the insolvent.

- (l) A vesting of the property on the liquidation of a company in the liquidator of such company or a restoration of such property by the liquidator to the company.
- (m) An acquisition of property in respect of which transfer duty is payable in terms of section 275 of the Mines and Minerals Act [*Chapter 21:05*].
- (n) An acquisition of property—
  - (i) by a company from the wholly owned subsidiary of the company; or
  - (ii) by the wholly owned subsidiary of a company from the company; or
  - (iii) by the wholly owned subsidiary of a company from another wholly owned subsidiary of the company;

if the Registrar of Deeds is satisfied that the company and its wholly owned subsidiary or the company and its wholly owned subsidiaries, as the case may be, are registered in terms of the Companies Act [*Chapter 24:03*] or the Insurance Act [*Chapter 24:07*], as the case may be:

Provided that if, within ten years after the date of acquisition of the property by the wholly owned subsidiary of a company and whilst the property is registered in the name of the wholly owned subsidiary of the company, the wholly owned subsidiary of the company ceases to be wholly owned by the company, duty shall become due and payable on the fair value of such property as determined by the Registrar of Deeds in terms of subsections (4) and (5) of section 23 of the principal Act, taking the date when the wholly owned subsidiary of the company ceased to be wholly owned by the company as being the date of acquisition of the property. If after that date the duty is still unpaid, the Registrar of Deeds shall make a note on the title deeds to the property and in his register stating that transfer of the property is prohibited until the duty has been paid; and until the duty has been paid no transfer of the property shall be passed.

In this exemption—

“company” includes—

- (a) a company as defined in the Companies Act [*Chapter 24:03*]; and
- (b) an insurer registered in terms of the Insurance Act [*Chapter 24:07*];

“wholly owned subsidiary” has the meaning assigned to it in the Companies Act [*Chapter 24:03*].

- (o) An acquisition of property by a local authority from the State by way of a transaction not involving purchase and sale where—
  - (i) the Secretary of the Ministry responsible for transferring the property certifies to the Commissioner that the property is to be used for public purposes; or
  - (ii) the property has been reserved by the State for the inhabitants of the area of the local authority.
- (p) An acquisition of property by a local authority in terms of the Regional, Town and Country Planning Act [*Chapter 29:12*], where the property—
  - (i) is acquired for public purposes; or
  - (ii) consists of a road, the ownership of which vests in the local authority in terms of the said Act.
- (q) An acquisition of property—
  - (i) by a pension or provident fund from a company all the shares of which are owned by that fund; or
  - (ii) by a company all the shares of which are owned by a pension or provident fund from that fund; or
  - (iii) by a company all the shares of which are owned by a pension or provident fund from another company all the shares of which are owned by that same fund:

Provided that if in the case of property acquired by such a company, within ten years after the date of acquisition of such property by that company and whilst such property is registered in the name of that company, the shares of that company cease to be wholly owned by the pension or provident fund concerned, duty shall become due and payable on the fair value of such property as determined by the Registrar of Deeds in terms of subsections (4) and (5) of section 23 of the principal Act, taking the date when all the

shares of the company ceased to be wholly owned by the pension or provident fund as being the date of acquisition of the property. If, after that date, the duty is still unpaid, the Registrar of Deeds shall make a note on the title deeds to the property and in his register stating that transfer of the property is prohibited until the duty has been paid, and until the duty has been paid no transfer of the property shall be passed.

In this exemption—

“pension or provident fund” means a pension fund or provident fund which is registered or provisionally registered in terms of the Pension and Provident Funds Act [*Chapter 24:09*];

“company” has the meaning assigned to it in the Companies Act [*Chapter 24:03*].

- (r) An acquisition of property by a petroleum operator, approved by the Minister by notice in the Gazette, where the property is acquired for the purposes of petroleum operations.  
In this exemption, “petroleum operations” and “petroleum operator” have the respective meanings given them by subsection (1) of section 2 of the Income Tax Act [*Chapter 23:06*].
- (s) An acquisition of property in respect of which an election has been made in terms of subparagraph (2) of paragraph 7 of the Eighth Schedule to the Income Tax Act [*Chapter 23:06*].
- (t) An acquisition of property in the circumstances described in paragraph (a) of subsection (1) of section 15 of the Capital Gains Tax Act [*Chapter 23:01*].”.

#### PART IV

#### VALUE ADDED TAX ACT

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

#### **28 Amendment of Schedule to Chapter IV of Cap. 23:04**

With effect from the 1<sup>st</sup> February, 2009, the Schedule to Chapter IV of the Finance Act [*Chapter 23:04*] is amended in Part III (“Special Rate of Value Added Tax on Supply of Cellular Telecommunications Services”) by the deletion of “twenty-two comma five *per centum*” and the substitution of “fifteen *per centum*”.

*Amendments to Value Added Tax Act [Chapter 23:12]*

#### **29 Amendment of section 28 of Cap. 23:12**

With effect from the 30<sup>th</sup> January, 2009, section 28 (“Returns and payments of tax”) of the Value Added Tax Act [*Chapter 23:12*] is amended by the repeal of subsection (1) and the substitution of the following subsections—

“(1) In this section, “mid-term tax”, in relation to a registered operator, means the amount of tax which is collected or accrues to the registered operator from the first to the fourteenth day of the tax period relating to him or her.

(1a) Every registered operator shall—

- (a) on the fifteenth day during the tax period relating to such registered operator or, if such day coincides with a public holiday, on the next working day thereafter, make a payment of mid-term tax; and
- (b) within the period ending on the fifth day of the first month commencing after the end of a tax period relating to such registered operator or, where such tax period

ends on or after the first day and before the last day of a month, within the period ending on such last day—

- (i) furnish the Commissioner with a return in the prescribed form reflecting such information as may be required for the purpose of the calculation of tax in terms of section 15; and
- (ii) calculate the amounts of such tax in accordance with the said section and, after excluding any mid-term tax paid by him or her, pay the tax payable to the Commissioner or calculate the amount of any refund due to the registered operator.”.

### **30 Amendment of section 38 of Cap. 23:12**

With effect from the 30<sup>th</sup> January, 2009, section 38 (“Manner in which tax shall be paid”) of the Value Added Tax Act [*Chapter 23:12*] is amended by the repeal of subsection (4) and the substitution of the following subsections—

“(4) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], where a registered operator—

- (a) receives payment of any amount of tax in foreign currency in respect of the supply of goods or services, that operator shall pay that amount to the Commissioner in foreign currency;
- (b) imports or is deemed in terms of section 12(1) to have imported goods into Zimbabwe, that operator shall pay any tax thereon to the Commissioner in foreign currency.

In this subsection “foreign currency” means the euro, British pound, United States dollar, South African rand, Botswana pula or any other currency denominated under the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment that may be substituted for the same.

(5) Where a registered operator does not receive payment of any amount of tax in respect of the supply of goods or services directly in the form of currency, whether Zimbabwean or foreign, but in the form of a coupon or any instrument or token that, in the opinion of the Commissioner, is exchangeable, whether directly or indirectly, for foreign currency, that operator shall pay an amount of tax to the Commissioner in foreign currency calculated on a valuation of that coupon, document or token which, in the opinion of the Commissioner, represents a fair valuation of that coupon, document or token in foreign currency.

(6) For the purposes of subsection (5) the Commissioner may, in the case of any coupon, instrument or token denominated in units of weight, volume or other measure of a specified commodity, specify from time to time by notice in the *Gazette* that a unit by weight, volume or other measure of that commodity shall be deemed to be worth a specified amount of a foreign currency.

(7) If the Commissioner has reasonable grounds to believe that a registered operator receives payment of any amount of tax in foreign currency in respect of the supply of goods or services, and that the registered operator—

- (a) has prepared or maintained or authorised the preparation or maintenance of any false books of account or other records, or falsified or authorised the falsification of any books of account or records; or
- (b) has furnished a false return or information;

with the effect that payment to the Commissioner of any amount of tax in foreign currency is avoided or postponed, the Commissioner may deem that all tax received by that operator in respect of the supply of goods or services is received in foreign currency unless, in respect of any particular transaction, such operator proves to the satisfaction of the Commissioner that the tax received in respect of that transaction was received in Zimbabwean currency.

(8) The Commissioner may require that any registered operator who tenders payment of tax in a foreign currency other than the United States dollar, to tender instead the equivalent amount of that tax in United States dollars, being an amount obtained by applying the international cross rate of exchange of the first-mentioned currency for the United States dollar prevailing on the day the tax concerned becomes due.

(9) For the avoidance of doubt it is declared that all the provisions of this Act shall apply, with such changes as may be necessary, to the payment in foreign currency of tax in terms of subsection (4) in the same way as they apply to the payment of tax in Zimbabwean currency.

In particular, section 44 (“Refunds”) shall apply so that any part of tax paid in foreign currency that is required to be refunded shall be refunded in foreign currency.”.

## PART V

### ESTATE DUTY

#### **31 Amendment of Schedule to Chapter VI of Cap. 23:04**

With effect from the 1<sup>st</sup> February, 2009, the Schedule to Chapter VI of the Finance Act [*Chapter 23:04*] is amended in paragraph 6E by the repeal of proviso (ii) thereto and the substitution of—

- “(ii) only such portion of the value of the property included in the estate as exceeds fifty thousand United States dollars shall be deemed to be the dutiable amount.”.

PART VI  
CAPITAL GAINS TAX

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

**32 New section substituted for section 37A of Cap. 23:04**

With effect from the 30<sup>th</sup> January, 2009, section 37A of the Finance Act [*Chapter 23:04*] is repealed and substituted by—

“37A Interpretation in Chapter VIII

(1) In this Chapter and the Capital Gains Tax Act [*Chapter 23:01*]—

“capital gains received by or accrued to or in favour of a person in a foreign currency” means capital gains so received or accrued in United States dollars or, if such gains are denominated in a foreign currency other than the United States dollar, the equivalent amount in United States dollars, being an amount obtained by applying the international cross rate of exchange of that currency for the United States dollar prevailing on the day the gains are received or accrued;

“Exchange Control (General) Order” means the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment that may be substituted for the same;

“foreign currency” means the euro, British pound, United States dollar, South African rand, Botswana pula and any other foreign currency denominated under the Exchange Control (General) Order.

(2) Any word or expression to which a meaning has been assigned in the Capital Gains Tax Act [*Chapter 23:01*] shall bear the same meaning when used in this Chapter.”.

**33 New section inserted in Chapter VIII of Cap. 23:04**

With effect from the 30<sup>th</sup> January, 2009, the Finance Act [*Chapter 23:4*] is amended in Chapter VIII by the insertion of the following section after section 39—

“39A Payment of capital gains tax in foreign currency in certain circumstances

(1) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], where capital gains are received by or accrued to or in favour of a person in whole or in part in a foreign currency, the capital gains tax thereon shall be paid in the same or another foreign currency on so much of those gains as are received or accrued in a foreign currency.

(2) Where only part of the capital gains are received by or accrued to or in favour of a person in a foreign currency, the amounts of any tax due on both parts of such capital gains in terms of sections 38 and 39 shall be calculated separately and paid in the appropriate currency relative to each part.

(3) Where any part of the capital gains received by or accrued to or in favour of a person are so received or accrued in the form of a coupon or any instrument or token that, in the

opinion of the Commissioner, is exchangeable, whether directly or indirectly, for a foreign currency, that person shall pay the requisite amount of capital gains tax to the Commissioner in a foreign currency calculated on a valuation of that coupon, instrument or token which, in the opinion of the Commissioner, represents a fair valuation of that coupon, instrument or token in the foreign currency in question.

(4) For the purposes of subsection (3) the Commissioner may, in the case of any coupon, instrument or token denominated in units of weight, volume or other measure of a specified commodity, specify from time to time by notice in the *Gazette* that a unit by weight, volume or other measure of that commodity shall be deemed to be worth a specified amount of a foreign currency.

(5) The Commissioner may require that any person referred to in subsection (1) who tenders payment of capital gains tax in a foreign currency other than the United States dollar, to tender instead the equivalent amount of that tax in United States dollars, being an amount obtained by applying the international cross rate of exchange of the first-mentioned currency for the United States dollar prevailing on the day the capital gains tax concerned becomes due.

(8) Subject to subsection (9), for the avoidance of doubt it is declared that all the provisions of the Capital Gains Tax Act [*Chapter 23:01*] shall apply, with such changes as may be necessary, to the payment in foreign currency of capital gains tax in the same way as they apply to the payment of such tax in Zimbabwean currency.

(9) For the purposes of determining the capital gain received by or accrued to or in favour of any person in a foreign currency, no amounts shall be deducted therefrom that are allowed to be deducted in terms of section 11 of the Capital Gains Tax Act [*Chapter 23:01*], other than—

- (a) the amount referred to in section 11(2)(a), (b), (d), (e), (f) and (g); and
- (b) in respect of each year or part of a year of assessment from—
  - (i) the date of acquisition of the specified asset to the date of sale, an amount of two and half *per centum* of the purchase price of the specified asset.; and
  - (ii) where any additions, alterations or improvements to the specified asset were made, an amount of two and half *per centum* of the cost of the additions, alterations or improvements to the date of sale of the specified asset:

Provided that where the expenditure referred to in paragraph (b)(i) or (ii) was incurred in Zimbabwean currency, the expenditure shall be converted to United States dollars in accordance with a formula prescribed by the Minister by notice in a statutory instrument.”.

*Amendments to Capital Gains Tax Act [Chapter 23:01]***34 Amendment of section 22C of Cap 23:01**

With effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, section 22C (“Depositories to withhold tax”)(1) of the Capital Gains Tax Act [*Chapter 23:06*] is amended by the deletion of “no later than thirty days” and the substitution of “no later than the third working day”.

**35 Amendment of section 22D of Cap 23:01**

With effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, section 22D (“Agents to withhold tax not withheld by depositories”)(1) of the Capital Gains Tax Act [*Chapter 23:06*] is amended by the deletion of “no later than thirty days” and the substitution of “no later than the third working day”.

**36 Amendment of section 22E of Cap 23:01**

With effect from the year of assessment beginning on the 1<sup>st</sup> January, 2009, section 22E (“Payee to pay tax not withheld by depository or agent”)(1) of the Capital Gains Tax Act [*Chapter 23:06*] is amended by the deletion of “no later than thirty days” and the substitution of “no later than the third working day”.

## PART VII

## CUSTOMS AND EXCISE

**37 New section substituted for section 115 of Cap. 23:02**

(1) With effect from the 30<sup>th</sup> January, 2009, section 115 of the Customs and Excise Act [*Chapter 23:02*] is repealed and the following is substituted—

## “115 Payment of duty in foreign currency

(1) The Minister may, notwithstanding section 41 of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] or anything provided by or under the Exchange Control Act [*Chapter 22:05*], require every person, including a resident of Zimbabwe, who imports any item of goods (hereafter in this section called a "foreign currency dutiable item") designated by the Minister by notice in a statutory instrument to be a foreign currency dutiable item, to pay any duty and import or value-added tax payable on such item in United States dollars (or in the case where the value or cost of any luxury item is expressed in the currency of a foreign country, other than the United States dollar, the value or cost shall be converted to United States dollars at the international cross rate of exchange of that currency for the United States dollar prevailing on the day of the conversion):

Provided that where any amount of duty and import or value-added tax thus payable may require payment to be made in coins, the Commissioner is authorised to increase or reduce the amount to the nearest figure to enable payment to be made in notes only.

(2) Section 39 applies to foreign currency dutiable items as it applies to other goods in the event of default of entry thereof, except that, notwithstanding section 41 of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] or anything provided by or under the Exchange

Control Act [*Chapter 22:05*], bids at a sale by public auction of foreign currency dutiable items conducted in terms of section 39(2) shall be made in United States dollars, euros or any other currency denominated under the Exchange Control (General) Order, 1996 (Statutory Instrument 110 of 1996):

Provided that where a foreign currency other than the United States dollar is used for the purposes of this subsection, the duty and import or value-added tax due shall be calculated by converting that foreign currency into United States dollars at the international cross rate of exchange of that currency for the United States dollar prevailing on the day of the conversion.

(3) The Minister may, in terms of subsection (1), designate all items in the customs tariff to be foreign currency dutiable items.”.

(2) The collection by the Zimbabwe Revenue Authority of customs duty and import or value-added tax on the basis that—

- (a) section 115 of the Customs Act [*Chapter 23:02*] as substituted by the Finance Act, 2009, had come into force on the 30<sup>th</sup> January, 2009; and
- (b) the Minister responsible for finance had, on the 30<sup>th</sup> January, 2009, designated all items in the customs tariff to be foreign currency dutiable items in terms of subsection (3) of the provision referred to in paragraph (a);

is hereby validated.

### **38 Amendment of section 127 of Cap. 23:02**

With effect from the 30<sup>th</sup> January, 2009, section 127 (“Liability for excise duty or surtax”) of the Customs and Excise Act [*Chapter 23:02*] is amended—

- (a) by the insertion of the following subsection before subsection (1)—
  - “(a1) In this section, “alcoholic beverages”, means the goods classified in tariff headings 2203, 2204, 2205, 2206 and 2208 of the customs tariff.”;
- (b) by the insertion of the following subsection after subsection (2)—
  - “(3) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], where the goods referred to in subsection (1) are alcoholic beverages, cigarettes or tobacco manufactured or produced—
    - (a) in accordance with this Act which are sold in foreign currency, payment of the excise duty thereon shall be made in foreign currency;
    - (b) otherwise than in accordance with this Act, payment of the excise duty thereon shall be made in foreign currency;

In this subsection “foreign currency” means the euro, United States dollar, South African rand, Botswana pula or any other currency denominated under the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment that may be substituted for the same.”.

**39 Amendment of section 172B of Cap. 23:02**

With effect from the 30<sup>th</sup> January, 2009, the Customs and Excise Act [*Chapter 23:02*] section 172B (“Special excise duty on sales of second-hand motor vehicles”) is amended by the insertion of the following subsection, the present section becoming subsection (1)—

“(2) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], where a second hand motor vehicle sold, transferred or otherwise disposed of to any person for foreign currency the special excise duty on the value of such sale, transfer or disposal shall be payable in foreign currency.

In this subsection “foreign currency” means the euro, United States dollar, South African rand, Botswana pula or any other currency denominated under the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment that may be substituted for the same.”.

**40 Amendment of section 235 of Cap. 23:02**

Section 235 (“Making of regulations”) (2) of the Customs and Excise Act [*Chapter 23:02*] is amended in paragraph (m)—

- (a) by the deletion of “breaches of such offences” and the substitution of “breaches of regulations made in terms of this paragraph”;
- (b) by the insertion of the following proviso thereto—

“Provided that, notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], every fine payable for breaches of regulations made in terms of this paragraph shall be payable in a foreign currency specified in those regulations.”.

**41 New section inserted in Cap. 23:02**

The Customs and Excise Act [*Chapter 23:02*] is amended by the insertion of the following section after section 239—

**“240 Application of Act where duty paid in foreign currency**

For the avoidance of doubt it is declared that all the provisions of this Act shall apply, with such changes as may be necessary, to the payment in foreign currency of any duty which, in terms of this Act, is payable in foreign currency, in the same way as they apply to the payment of duty in Zimbabwean currency.

In particular, section 125 (“Refunds generally”) shall apply so that any part of duty paid in foreign currency that is required to be refunded shall be refunded in foreign currency.”.

**PART IX****REVENUE AUTHORITY****42 New Part inserted in Cap. 23:11**

The Revenue Authority Act [*Chapter 23:11*] is amended by the insertion of the following Part after Part III (“Financial Provisions Relating to Authority”)—

“PART IIIA

EXPEDITED PROCEDURE FOR RECOVERY OF OUTSTANDING TAXES

“33A Interpretation in Part IIIA

In this Part—

“moveable property” includes Zimbabwean and foreign currency;

**33B When expedited procedure competent, jurisdiction of magistrates courts and period within which expedited procedure allowed**

- (1) Notwithstanding anything contained in—
- (a) the Capital Gains Tax Act [*Chapter 23:01*]; or
  - (b) the Income Tax Act [*Chapter 23:06*]; or
  - (c) the Stamp Duties Act [*Chapter 23:09*]; or
  - (d) the Value Added Tax Act [*Chapter 23:12*] (No. of 2002);

the Commissioner-General may recover any outstanding tax or duty, including interest and any penalty thereon, payable and outstanding in terms of those Acts in accordance with this Part.

(2) Notwithstanding anything contained in any law relating to magistrates courts, any amount whatsoever due and payable under this section shall be recoverable by action in the court of the magistrate having jurisdiction in respect of the person by whom such amount is payable under this section.

(3) No seizure shall be made in terms of this Part where more than six years have elapsed since the tax or duty referred to in section 33C(1) became payable.

**33C Issuance, contents and service of provisional attachment order**

- (1) In every case in which—
- (a) any taxpayer fails to pay any tax or duty for which he or she is liable under any specified Act within the time allowed under the specified Act; or
  - (b) any taxpayer fails to furnish any return or information in connection with his or her liability for tax or duty under any specified Act within the time allowed under the specified Act; or
  - (c) the Commissioner-General is not satisfied with the return or information furnished by any taxpayer under any specified Act; or
  - (d) the Commissioner-General, notwithstanding that a taxpayer may not have been called upon to furnish any return or information under any specified Act, has reason to believe that such taxpayer is about to leave Zimbabwe;

the Commissioner-General may make an assessment of the extent of the taxpayer’s liability for the tax or duty in question, either in whole or in part, together with any penalty and interest thereon calculated in accordance with the specified Act concerned, and thereupon shall serve upon the taxpayer a provisional attachment order in accordance with subsection

(3) authorising the attachment of any moveable property of the taxpayer in satisfaction of the tax or duty so estimated.

(2) A provisional attachment order shall specify—

- (a) the name of the taxpayer liable for payment of the tax or duty and the amount of the tax or duty, together with any penalty and interest thereon, estimated under subsection (1); and
- (b) the circumstances, by reference to subsection (1)(a), (b), (c) or (d), that led to the order being made; and
- (c) the location of the moveable property subject to attachment; and
- (d) the court at which, and the date or any one of two or more specified dates on which, the Commissioner-General intends to confirm the order in accordance with section \_\_\_\_, being a date or dates not earlier than ten days or later than twenty-one days from the date of service of the provisional order in accordance with subsection (3).

(3) A provisional attachment order may be served on a taxpayer in any of the following ways—

- (a) by delivering it to him or her personally or to his or her duly authorised agent;
- (b) by delivering it to a responsible person at the taxpayer's residence or place of business or employment;
- (c) by sending it by registered post;
- (d) in the case where the taxpayer to be served is a body corporate, by delivering it to—
  - (i) a responsible person at the body corporate's registered office or place of business; or
  - (ii) a director or the secretary of public officer of the body corporate;
- (e) in the case where the taxpayer to be served is a partnership, by delivering it to—
  - (i) a responsible person at the partnership's office or place of business; or
  - (ii) any of the partners;
- (f) in the case where the taxpayer to be served is a syndicate, club, society, or other unincorporated association, by delivering it to—
  - (i) a responsible person at the association's local office or place of business; or
  - (ii) the association's chairperson, secretary or similar officer;
- (g) in the case where service in accordance with any of the foregoing modes is not possible for any reason, by publication by or on behalf of the Commissioner-General of a notice in the *Gazette* or in one or more issues of a newspaper circulating in the area in which the taxpayer concerned last resided or conducted

his or her business, notifying the taxpayer of the terms of the provisional attachment order.

and service of the order in accordance with this subsection shall constitute due notice to the taxpayer of the Commissioner-General's intention to confirm the provisional order on the date or one of the dates specified therein.

### 33D Powers of Commissioner-General in relation to provisional attachment order

(1) For the purposes of serving and executing a provisional attachment order the Commissioner-General may—

- (a) at any time, enter any house or premises described in the order; and
- (b) require a police officer to be present while the order is being executed.

(2) The moveable property subject to attachment under this section, other than perishable goods, may, pending the confirmation of the provisional attachment order in terms of section \_\_\_\_, be kept for a period not exceeding twenty-one days either at the premises where the property is located or at any other place that the Commissioner-General may consider appropriate, at the cost of the taxpayer liable.

(3) A provisional attachment order may be discharged at any time before it is confirmed in terms of section \_\_\_\_, if the taxpayer makes payment to the Commissioner-General of the amount of the tax or duty, together with any interest thereon, estimated under subsection (2), in which event—

- (a) the taxpayer shall not be liable to pay the costs of executing the provisional attachment order; and
- (b) the Commissioner-General may agree terms for the payment of the amount of the tax or duty due by instalments, without prejudice to the Commissioner-General's right to recommence proceedings under this section if the taxpayer fails to abide by those terms.

(9) No later than twenty-one days after the service of a provisional attachment order, the order shall be confirmed as a final attachment order by application in chambers made by or on behalf of the Commissioner-General to a magistrate referred to in subsection (8).

(10) Subject to this section, proceedings for the recovery of any tax or duty in terms of this section shall be deemed to be proceedings for the recovery of a debt validly acknowledged in writing by the debtor, and, for the avoidance of doubt, a provisional attachment order may be confirmed in the absence of the taxpayer concerned if he or she has been duly served with or notified of it in terms of subsection (4).

(11) There shall be submitted together with the application referred to in subsection (9) —

- (a) a copy of the provisional attachment order relating to the taxpayer who is the subject of the application; and

- (b) an affidavit by or on behalf of the Commissioner-General that the taxpayer who is the subject of the application has been served with or notified of the application under subsection (4); and
- (c) written proof of any costs incurred by the Commissioner-General in serving and executing the provisional attachment order and storing or safeguarding the attached property.

(12) In an application under this section for a final attachment order, the onus shall be on the taxpayer concerned to prove that he or she is not liable for the tax or duty, or that the estimate of the amount of the tax or duty, together with any interest thereon, is incorrect.

(13) Upon considering an application under this section for a final attachment order, the magistrate may—

- (a) confirm the provisional attachment order as a final attachment order and make any award of costs in favour of the Commissioner-General; or
- (b) to the extent that the taxpayer concerned has discharged the onus referred to in subsection (10) —
  - (i) confirm the provisional attachment order subject to any conditions or alterations directed by the judge or magistrate; or
  - (ii) decline to confirm the provisional attachment order as a final attachment order

(14) A decision by a magistrate not to confirm a provisional attachment order or to confirm it subject to conditions or alterations shall not prevent the Commissioner-General from making a fresh application in terms of this subsection on the basis of new evidence obtained since the original application, or to correct any mistake in the original application, and subsections () and () shall apply to such fresh application.

(15) Not earlier than three days or more than fourteen days after the confirmation of a provisional attachment order, the Commissioner-General shall, subject to this section, cause the attached property to be sold by public auction:

Provided that the Commissioner-General shall give the taxpayer concerned not less than forty-eight hours written notice (served in any of the ways specified in subsection ()) of the date and place of the auction.

(16) The offer for sale by public auction shall be subject to a reserve sufficient to cover the tax or duty, together with any interest thereon, and the expenses incurred in connection with the sale:

Provided that—

- (i) the Commissioner-General may by direction accept such bid below the reserve as he or she deems adequate;
- (ii) if the property is not sold at such sale they may, by direction of the Commissioner-General, be sold out of hand or appropriated to the State without compensation.

(17) The proceeds of any sale in terms of subsection (2), (4) or (5) shall be applied in payment of—

- (a) the tax or duty due, together with any interest thereon, and any expenses incurred in connection with the sale; and
- (b) costs incurred by the Commissioner-General in serving and executing the provisional attachment order and storing or safeguarding the attached property;

in that order.

(18) Any balance remaining after the proceed of any sale have been applied in terms of subsection (17) shall, be paid to the taxpayer.

### 33D Voidable dispositions of property by taxpayers

(1) If an administrator has reasonable grounds for believing that a troubled financial institution or specified person has made any disposition of the property of such institution or of his or her own property, as the case may be, in collusion with another person for the purpose of securing that property against sequestration in the course of insolvency or administration proceedings, the administrator may, on not less than fourteen days' written notice to the person in whose favour the disposition was made, apply to a magistrate or judge in chambers (depending on which court has jurisdiction in the matter) for an order setting aside such disposition and causing such property to be delivered to the administrator.

(2) A disposition shall not be set aside in terms of subsection (1) if the person in whose favour the disposition was made proves that the disposition was not collusive but made in the ordinary course of business without the intention of securing that property against sequestration in the course of insolvency or administration proceedings.

## 42 New section inserted in Cap. 23:11

The Revenue Authority Act [*Chapter 23:11*] is amended by the insertion of the following section after section 34C—

### “34D Advance tax rulings

The Commissioner-General may, in accordance with the Fourth Schedule, make an advance tax ruling on any provision of any of the Acts specified in the First Schedule, whether on his or her own initiative or on application by any person interested in a transaction that is or may be liable to tax.”.

## 43 New Schedule inserted in Cap. 23:11

The Revenue Authority Act [*Chapter 23:11*] is amended by the insertion after the Third Schedule of the following Schedule—

“FOURTH SCHEDULE (*Section 34D*)

ADVANCE TAX RULINGS

*Interpretation*

1 In this Schedule—

“advance tax ruling” means a written statement in the form of a binding general ruling, binding private ruling and binding class ruling issued by the Commissioner-General regarding the interpretation or application of the relevant Act;

“applicant” means a person who applies for a binding private ruling or a binding class ruling;

“binding class ruling” means an advance tax ruling issued in response to an application by an applicant regarding the application or interpretation of the Act as it affects a specific class of persons;

“binding general ruling” means an advance tax ruling, issued in accordance with the requirements of the relevant Act;

“binding private ruling” means an advance tax ruling issued in response to an application by an applicant regarding the application or interpretation of the relevant Act in respect of a proposed transaction as it affects the applicant alone;

“class member” means a member of the class to which a binding class ruling applies, such as a shareholder in a company or an employee participant in a share investment scheme;

“entity” means a person, other than a natural person, which may apply for a binding class ruling on behalf of its shareholders or members in respect of a proposed transaction to which it is a party, and includes a company, private business corporation, cooperative society or trade association:

Provided that an entity does not include a professional firm acting or purporting to act on behalf of a client;

“nonbinding private opinion” means a written statement issued by the Commissioner-General in response to an inquiry by a person in order to provide the person with informal guidance in respect of the tax treatment of a particular set of facts and circumstances or transaction, but which does not have any binding effect;

“relevant Act”, in relation to an advance tax ruling, means any one of the Acts specified in the First Schedule in respect of which the ruling is made or sought;

“tax” means any tax, duty, fee, levy, charge, penalty, fine or any other money levied, imposed, collected or received in terms of any of the Acts specified in the First Schedule;

“transaction” means any transaction, deal, business, arrangement, operation or scheme, and includes a series of transactions.

*Application for advance tax ruling*

2.(1) Subject to the minimum requirements set forth in subparagraph (2), an application for an advance tax ruling must be made in such manner and in such form as the Commissioner-General may prescribe, and be accompanied by the fee charged in terms of paragraph 18 of the Second Schedule, if any.

- (2) An application must state the following minimum information—
- (a) applicant's name, postal address and telephone number; and
  - (b) the name, postal address and telephone number of the applicant's representative, if any; and
  - (c) a complete description of the proposed transaction in respect of which the ruling is sought; and
  - (d) a complete description of the impact the proposed transaction may have upon the tax liability of the applicant or, where relevant, any connected person in relation to the applicant, including any and all relevant information regarding the financial or tax implications of the proposed transaction; and
  - (e) a complete description of any transactions entered into by the applicant prior to submitting the application or that may be taken after the completion of the proposed transaction which may have a bearing on the tax consequences of the proposed transaction or may be considered to be part of a series of transactions involving the proposed transaction; and
  - (f) the proposed ruling being sought; and
  - (g) a citation of the relevant statutory provisions or issues; and
  - (h) the reasons why the applicant believes that the proposed ruling should be made; and
  - (i) a statement of the applicant's interpretation of the relevant statutory provisions or issues, as well as an analysis of any relevant authorities either considered by the applicant or of which the applicant is aware, whether those authorities support or are contrary to the proposed ruling being sought; and
  - (j) a statement to, to the best of the applicant's knowledge, that the same or substantially the same or substantially similar issue upon which a ruling is sought is not the subject of an audit, examination, investigation, ruling application, objection and appeal, or other proceeding currently before the Commissioner-General or the courts involving the applicant or a connected person in relation to the applicant; and
  - (k) a draft version of the binding private ruling or binding class ruling to be issued; and
  - (l) a description of the information that the applicant believes should be deleted from the final ruling before the publication of the ruling in order to protect the applicant's confidentiality; and

(m) the applicant's consent to the publication of the ruling by the Commissioner-General.

(3) In addition to the minimum information required by subparagraph (2), an application for a binding class ruling must also state the following minimum information—

- (a) a description of the class members concerned; and
  - (b) the impact the proposed transaction may have upon the liability of the class members or, where relevant, any connected person in relation to the applicant or any class member.
- (4) The Commissioner-General may request additional from an applicant at any time.

*Cases where applications for advance tax ruling must be rejected*

3.(1) Notwithstanding the foregoing provisions, the Commissioner-General shall not accept an application for an advance tax ruling in any of the following circumstances—

- (a) where the application requests or requires the rendering of an opinion, conclusion or determination regarding or in respect of any of the following—
  - (i) the market value of an asset; or
  - (ii) the application or interpretation of the laws of a foreign country; or
  - (iii) the pricing of goods or services supplied by or rendered to a connected person in relation to the applicant (or to a class member in the case of an application for a binding class ruling); or
  - (iv) the constitutionality of any of the Acts specified in the First Schedule or any other tax law; or
  - (v) a proposed transaction that is hypothetical or not seriously contemplated;
- (b) where the application relates to the duty of an employer to determine whether a person is a casual, part-time or full-time employee, or an independent contractor;
- (c) where the application is submitted for academic purposes; or
- (d) where the application presents, contains, or raises—
  - (i) a frivolous or vexatious issue; or
  - (ii) alternative courses of action by the applicant (or requests or requires the rendering of an opinion, conclusion or determination regarding such alternative courses of action); or
  - (iii) an issue that is the same as or substantially similar to an issue that is—
    - A. the subject of an audit, examination, investigation or other proceeding by the Commissioner-General involving the applicant (or, in the case of a binding class ruling, in relation to the applicant or any class member); or
    - B. the subject of any draft legislation; or
    - C. pending before the courts.

(2) In addition to the rejections set forth in subparagraph (1), the Commissioner may reject any application regarding or in respect of the following—

- (a) the application or interpretation of any general or specific anti avoidance provision;
- (b) an issue—
  - (i) that is inherently or distinctly factual in nature; or
  - (ii) in respect of which material facts cannot be established at the time of application; or
  - (iii) the resolution of which would depend upon assumptions to be made regarding a future event or other matters which cannot be reasonably determined at the time of the application; or
  - (iv) which would more appropriately be dealt with by the competent authorities of the parties to an agreement for the avoidance of double taxation; or
  - (v) which is the same as or substantially the similar to an issue upon which the applicant has already received a ruling; or
  - (vi) in which the tax treatment of the applicant is dependent upon the tax treatment of another party to the proposed transaction and that other party has not applied for a ruling; or
  - (vii) in respect of a transaction that is part of another transaction which has a bearing on that issue and the details of that other transaction have not been disclosed; or
- (c) a matter the resolution of which would be unduly time-consuming or resource consuming or resource intensive;

(3) In addition to the rejections set forth in subparagraphs (1) and (2), the Commissioner-General may publish lists of issues in respect of which applications for advance tax rulings will not be accepted.

(4) If the Commissioner-General requests additional information in respect of or in connection with an application and the applicant fails or refuses to provide that information, the Commissioner-General may reject that application without any refund or rebate of any applicable fees.

*Binding effect of advance tax rulings*

4.(1) The Commissioner-General must interpret or apply the relevant Act in favour of the applicant or otherwise in accordance with the advance tax ruling given.

(2) An advance tax ruling does not have any binding effect upon the Commissioner-General in relation to future cases.

(3) A binding general ruling may be cited by the Commissioner-General or any person in any proceedings before the Commissioner-General or the courts.

(4) A binding private ruling may not be cited in any proceeding before the Commissioner-General or the courts other than a proceeding involving the applicant for that ruling.

(5) A binding class ruling may not be cited in any proceeding before the Commissioner-General or the courts by any person other than a proceeding involving the applicant for that ruling or an affected class member identified in the ruling.

(6) A publication or other written statement issued by the Commissioner-General does not have any binding effect unless it is an advance tax ruling.

*Non-binding private opinions and other written statements*

5.(1) The Commissioner-General may issue a nonbinding private opinion to a person regarding the tax treatment of a particular set of facts and circumstances or a particular transaction.

(2) A nonbinding private opinion may not be cited in any proceeding before the Commissioner-General or the courts other than a proceeding involving the person to whom the nonbinding private opinion was issued.

(3) Any written statement issued by the Commissioner-General interpreting or applying the Income Tax Act [*Chapter 23:06*] prior to the 1<sup>st</sup> January, 2007, or any other relevant Act prior to the 1<sup>st</sup> January, 2009, is to be treated as and have the effect of a nonbinding private opinion, unless the Commissioner-General prescribes otherwise in writing.

*Conditions for the applicability of advance tax rulings*

6.(1) An advance tax ruling applies to a person only if all of the following conditions have been satisfied—

- (a) the provision or provisions of the relevant Act at issue are the subject of the advance tax ruling; and
  - (b) the set of facts and circumstances of transaction presented by the person are the same as the particular set of facts and circumstances governed by the advance tax ruling; and
  - (c) the set of facts and circumstance of the transaction fall entirely within the effective period of the advance tax ruling; and
  - (d) any assumptions made or conditions imposed by the Commissioner-General in connection with the validity of the advance tax ruling have been satisfied or carried out.
- (2) In addition to the requirements set forth in subparagraph (1)—
- (a) in the case of a binding private ruling, the ruling applies to a person only if that person is the applicant identified in the ruling; and
  - (b) in the case of a binding class ruling, the ruling applies to a person only if that person is either the applicant identified in the ruling or a class member identified in the ruling.

*Rulings rendered void due to fraud, misrepresentation, etc.*

7.(1) A binding private ruling or a binding class ruling is nullified under any of the following circumstances—

- (a) the facts stated in the application regarding the proposed transaction are materially different from the transaction actually carried out; or
- (b) there is a misrepresentation or wilful nondisclosure of a material fact; or
- (c) any condition or assumption stipulated by the Commissioner-General as a condition of the issue or binding effect of the ruling is not satisfied or carried out.

(2) For purposes of this paragraph, a fact is considered material if it would have resulted in a different ruling had the Commissioner-General been aware of it when the original ruling was made.

*Impact of subsequent changes in tax law*

8(1) An advance tax ruling ceases to be effective upon the occurrence of any of the following circumstances—

- (a) if the provision of the relevant Act that was the subject of the advance tax ruling is repealed or amended, the advance tax ruling will cease to be effective from the date such repeal or amendment is effective;
- (b) if a court overturns or modifies an interpretation of the relevant Act on which the advance tax ruling is based, the advance tax ruling will cease to be effective from the date of the court's judgment unless—
  - (i) the decision is under appeal; or
  - (ii) the decision is fact –specific and the general interpretation upon which the advance tax ruling was based is unaffected; or
  - (iii) the reference to the interpretation upon which the advance tax ruling was based was *obiter dicta*.

(2) An advance tax ruling ceases to be effective immediately upon the occurrence of the circumstances described in subparagraph (1), whether or not the Commissioner-General publishes a notice of withdrawal or modification.

*Withdrawal or modification*

9.(1) Subject to this paragraph, the Commissioner-General may withdraw or modify an advance tax ruling at any time.

(2) Notification of the withdrawal or modification of an advance tax ruling must be communicated in such a manner as the Commissioner-General considers will notify the persons affected by it and must include the following information—

- (a) the title or number of the advance tax ruling being withdrawn or modified; and
- (b) in the case of a modification, a summary of the changes made; and
- (c) the effective date (which may be a retrospective date) of the withdrawal or modification.

(3) If the advance tax ruling is either a binding private ruling or a binding class ruling, the Commissioner-General must first provide the applicant with notice of the proposed withdrawal or modification and a reasonable opportunity to state any proposition of law or fact relevant to the decision to withdraw or modify the ruling;

*Binding general rulings*

10.(1) The Commissioner-General may, at any time, make binding general rulings.

(2) A binding general ruling may be effective for either—

- (a) a particular year of assessment or other definite period; or
- (b) an indefinite period.

(3) A binding general ruling must state—

- (a) that it is a binding general ruling made under this paragraph; and
- (b) the provisions of the relevant Act which are the subject of the binding general ruling; and
- (c) either—
  - (i) the year of assessment or other definite period for which it applies; or
  - (ii) in the case of a binding general ruling for an indefinite period, that it is for an indefinite period and the date or year of assessment from or beginning with which it applies.

(4) Subject to subparagraph (3), binding general rulings may be issued in such form and in such manner as the Commissioner-General may prescribe, including but not limited to interpretation notes and practice notes.

(5) A publication or other written statement shall not be considered as a binding general ruling unless it contains the information prescribed by subparagraph (3).

*Binding private rulings*

11.(1) The Commissioner-General may issue binding private rulings regarding the application or interpretation of any of the provisions of the relevant Act to a proposed transaction upon application by a person in accordance with paragraph 2.

(2) The Commissioner-General may make a binding private ruling subject to such conditions and assumptions as may be prescribed in the ruling.

(3) The Commissioner-General must provide an applicant with a reasonable opportunity to consult if, based upon the application and any additional information received, it appears that the content of the binding private ruling to be made would differ materially from the proposed ruling sought by the applicant.

(4) The Commissioner-General must issue the final binding private ruling to the applicant at the address shown in the application unless the applicant provides other instructions, in writing, before the ruling is issued.

(5) A binding general ruling must contain—

- (a) a statement identifying it as a binding private ruling made under this paragraph; and
- (b) the name, tax number and postal address of the applicant; and
- (c) a citation of the relevant statutory provisions or issues; and
- (d) a description of the proposed transaction; and
- (e) the specific ruling made; and
- (f) any assumptions made or conditions imposed by the Commissioner-General in connection with the validity of the ruling; and
- (g) the period for which the ruling is valid.

(6) Subject to subparagraph (5), a binding private ruling may be issued in such manner and in such form as the Commissioner-General may prescribe.

*Binding class rulings*

12.(1) The Commissioner-General may issue binding class rulings regarding the application or interpretation of a provision of the relevant Act to proposed transaction upon application by a person in accordance with paragraph 2.

(2) The Commissioner-General may make a binding class ruling subject to such conditions and assumptions as may be prescribed in the ruling.

(3) The Commissioner-General must provide an applicant with a reasonable opportunity to consult if, based upon the application and any additional information received, it appears that the content of the binding class ruling to be made would differ materially from the proposed ruling sought by the applicant.

(4) The Commissioner-General must issue the final binding class ruling to the applicant at the address shown in the application unless the applicant provides other instructions, in writing, before the ruling is issued;

(5) A binding general ruling must contain—

- (a) a statement identifying it as a binding class ruling made under this paragraph; and
- (b) the name, tax number and postal address of the applicant; and
- (c) a list or a description of the affected class members; and
- (d) a citation of the relevant statutory provisions or issues; and
- (e) a description of the proposed transaction; and
- (f) the specific ruling made; and
- (g) any assumptions made or conditions imposed by the Commissioner-General in connection with the validity of the ruling; and
- (h) the period for which the ruling is valid.

(6) Subject to subparagraph (5), a binding class ruling may be issued in such manner and in such form as the Commissioner-General may prescribe:

(7) Prior to final publication, the Commissioner must provide the applicant with a draft copy of the edited ruling for review and comment.

(8) It is the sole and exclusive responsibility of the applicant to communicate with the affected class members regarding the application for the binding class ruling, the issuance, withdrawal or modification of such ruling, or any other information or matters pertaining to such ruling.

*Procedures and guidelines*

13. The Commissioner-General may issue procedures and guidelines, in the form of binding general rulings, for the implementation and operation of the advance tax ruling system established by this Schedule.”.

PART X

RESERVE BANK OF ZIMBABWE

**44 New section inserted in Cap. 22:15**

(1) The Reserve Bank of Zimbabwe Act [*Chapter 22:15*] is amended by the insertion after section 42A of the following section—

“42B Issue of Reserve Bank vouchers

(1) If the Bank is of the opinion that a shortage of currency of any denomination to pay the remuneration of members of the Public Service or other employees of the State is imminent or is in existence which needs to be dealt with urgently in the interests of public order or the economic interests of the State, it may, with the consent of the Minister, authorise the issue of Reserve Bank vouchers specifying thereon a predetermined amount in any currency that is redeemable at the Bank subject to any one or more of the following conditions, namely conditions as to—

- (a) the redemption or negotiability of the voucher by persons other than the Reserve Bank, if any;
- (b) the goods or services or classes of goods or services which the voucher may be used to purchase;
- (c) the retail or other outlets or classes of retail or other outlets at which the voucher may be used to purchase goods and services;
- (d) the expiry date of the voucher, if any:

(2) A Reserve Bank voucher which tendered in accordance with any conditions subject to which it is issued and which has not expired shall be legal tender in payment within Zimbabwe of the amount expressed in the voucher.

(3) Section 42 applies to Reserve Bank vouchers as it applies to banknotes.”.

(2) Any vouchers issued by the Reserve Bank before the date of commencement of the Finance Act, 2009, in payment or part payment of the remuneration of members of the Public Service or other employees of the State, shall be deemed to have been issued in terms of section 42B of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] as inserted by the Finance Act, 2009.

PART XI  
ROAD TOLLS

**45 Amendment of section 2 of Cap. 13:13**

Section 2 (“Interpretation”) of the Toll Roads Act [*Chapter 13:13*] is amended by the insertion of the following definitions—

““Exchange Control (General) Order” means the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment that may be substituted for the same;”.

“foreign currency” means the British pound, euro, United States dollar, South African rand, Botswana pula and any other foreign currency denominated under the Exchange Control (General) Order;

**46 Amendment of section 4 of Cap. 13:13**

Section 4 (“Levying of tolls”) of the Toll Roads Act [*Chapter 13:13*] is amended—

(a) by the insertion after subsection (1) of the following subsection—

“(1a) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], road tolls on vehicles using a toll-road may be fixed in a foreign currency.”.

(b) by the insertion after subsection (4) of the following subsections—

“(5) If any person using a vehicle on a toll-road is unable for any reason to pay the whole or any part of the toll at the time he or she so uses the vehicle, the authorised person shall issue him or with a written order—

- (a) requiring him or her, within seven days thereafter, to pay the toll at the police station or other place specified by the authorised person in the order; and
- (b) naming the person to whom, the place where, and the date when, the order was made.

(6) If a person is convicted of an offence in terms of subsection (4)—

- (a) for refusing to pay a toll; or
- (b) for failing to comply with an order referred to in subsection (5) within the time there specified;

the court convicting him or her may, on the application of the prosecutor and in addition to any penalty it may impose, give summary judgment against the convicted person in favour of the authorised person concerned for the twice the amount of the unpaid toll..”.

## PART XII

## AMENDMENTS OF OTHER ACTS AND SAVINGS

**47 Amendment of Ninth Schedule to Cap. 9:07**

The Ninth Schedule (“Offences Involving Corruption, Organised Crime or Harm to the National Economy”) of the Criminal Procedure and Evidence Act [*Chapter 9:07*] is amended by the repeal of paragraph 13 and the substitution of—

“13. Contravening—

- (i) section 89 (“Wilful damage to or interference with telecommunication lines”) of the Postal and Telecommunications Act [*Chapter 12:05*]; or
- (ii) section 60A (“Offences in relation to electric current and apparatus”) of the Electricity Act [*Chapter 13:19*]; or
- (iii) section 37 (“Offences on railway premises”) or section 38 (“Certain offences and punishment therefor”) of the Railways Act [*Chapter 13:09*].

14. A conspiracy, incitement or attempt to commit any offence referred to in paragraphs 1 to 13.”.

**48 Amendment of Cap. 9:23**

(1) With effect from the 1<sup>st</sup> February, 2009, section 280 (“Standard scale of fines and amendment thereof”) of the Criminal Law Code is amended—

(a) by the insertion of the following subsection before subsection (1)—

“(a1) In this section—

“Reserve Bank exporters’ surrender rate” means the rate at which the Reserve Bank of Zimbabwe exchanges the United States dollar for the Zimbabwe dollar in favour of an exporting business organisation that is required to surrender to the Bank any part of its export earnings in United States dollars for Zimbabwe dollars;

“existing monetary amount specified in the second column of the First Schedule” means, where such amount has previously been amended in accordance with subsections (4a) and (4b), such amount as last amended;

“prevailing”, in relation to the Reserve Bank exporters’ surrender rate, means prevailing on the day the calculation referred to in subsection (4b) is carried out.”;

(b) in subsection (1)—

- (i) by the insertion after “that may be imposed shall” of “, subject to subsection (1a)”;
- (ii) by the deletion of “in the second column” and the substitution of “in the second or third column”;

(c) by the insertion of the following subsection after subsection (1)—

“(1a) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], every fine specified in the second column may, at the option of the person required to pay the fine, be paid in whole or in part in United States dollars in the amount specified in the third column.”;

(d) by the insertion of the following subsections after subsection (4)—

“(4a) After consultation with the Minister responsible for Justice the Minister responsible for finance may, not more frequently than once in every fortnight, by notice in a statutory instrument, amend the existing monetary amounts specified in the second column of the First Schedule in the manner specified in subsection (4b) to take into account the decline in the purchasing power of the Zimbabwe dollar in relation to the United States dollar.

(4b) For the purpose of subsection (4a), every existing monetary amount specified in the second column of the First Schedule shall be adjusted by multiplying the United States dollar monetary amount specified opposite thereto in the third column by the prevailing Reserve Bank exporters’ surrender rate, rounded downwards to the nearest multiple of ten.

(4c) The amendment of the existing monetary amounts specified in the second column of the First Schedule shall take effect on the first Monday of the week following the week in which the statutory instrument referred to in subsection (4a) is published.”;

(e) by the insertion of the following subsection after subsection (6)—

“(7) Where the Minister responsible for finance, after consultation with the Minister responsible for Justice, proposes to reduce every existing monetary amount specified in the third column of the First Schedule then, notwithstanding subsections (5) and (6), the Minister responsible for finance may, by notice in a statutory instrument, reduce the monetary amounts accordingly, and such instrument shall take effect on the first Monday of the week following the week in which it is published.”;

(f) 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

<b>Level</b>	<b>Monetary Amount (Zimbabwe \$)</b>	<b>Monetary Amount (US \$)</b>
1	250	5
2	500	10
3	1000	20
4	5000	100
5	10 000	200

6	15 000	300
7	20 000	400
8	25 000	500
9	30 000	600
10	35 000	700
11	50 000	1000
12	100 000	2000
13	150 000	3000
14	250 000	5 000.”.

(2) References to the Zimbabwe dollar in the amendments made by subsection (1) to the Criminal Law Code shall be construed in accordance with the new currency system as defined in section 55.

#### **49 Amendment of Cap. 13:09**

The Railways Act [*Chapter 13:09*] is amended—

- (a) in section 21 (“By-laws of Railways”) (2) of the by the deletion of “level two” and the substitution of “level six”;
- (b) in section 36 (“Obstruction of employee of Railways”) by the deletion of “level five” and “six months” and the substitution of “level seven” and “two years” respectively;
- (c) in section 37 (“Offences on railway premises”) by the repeal of subsection (3) and the substitution of the following subsections—

“(3) Any person who, in or upon any railway premises, has in his or her possession without reasonable excuse (the proof whereof shall lie on him or her) any article or implement capable of being used to destroy, damage or dismantle any railway, telephone or telegraph lines or power cables or the works or appurtenances thereof, or any locomotive, rolling-stock or other vehicle using such railway, shall be guilty of an offence and, if there are no special circumstances peculiar to the case as provided for in subsection (3b), to imprisonment for a period of not less than five years or more than ten years.

(3a) A court sentencing a person to imprisonment under subsection (3) shall not order the suspension of any part of the sentence if the effect of such order is that the convicted person will serve a sentence of less than five years.”;

(3b) If a person referred to in subsection (3) satisfies the court that there are special circumstances peculiar to the case, which circumstances shall be recorded by the court, why the penalty provided under subsection (3) should not be imposed, the convicted person shall be liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding five years or both.”;

- (d) in section 38(“Certain offences and punishment therefor”)—

- (i) in subsection (1) by the deletion of “liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment” and the substitution of “liable, if there are no special circumstances peculiar to the case as provided for in subsection (2b), to imprisonment for a period of not less than five years or more than ten years”;
- (ii) in subsection (2) by the insertion after “liable to be sentenced to imprisonment for life” of “or any definite period of imprisonment of not less than ten years, if there are no special circumstances peculiar to the case as provided for in subsection (2b)”;
- (iii) by the insertion after subsection (2) of the following subsections—

“(2a) A court sentencing a person to imprisonment under subsection (1) or (2) shall not order the suspension of any part of the sentence if the effect of such order is that the convicted person will serve a sentence of less than five years (in the case of a conviction for an offence in terms of subsection (1)) or ten years . (in the case of a conviction for an offence in terms of subsection (2))

“(2b) If a person convicted in terms of subsection (1) or (2) satisfies the court that there are special circumstances in the particular case, which circumstances shall be recorded by the court, why the penalty provided under subsection (1) or (2) should not be imposed, the convicted person shall be liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding five years or both.”;

- (iv) by the insertion after subsection (2) of the following subsections—

“(3) Any person who—

- (a) receives or takes possession of any stolen equipment used for the provision of a railway service, including (but not limited to) any locomotive, rolling-stock, railway track, sleeper, telephone or telegraph line, or power cable, or any part or component of any of the foregoing—
  - (i) knowing that it has been stolen; or
  - (ii) realising that there is a real risk or possibility that it has been stolen;
- (b) carries or causes to be carried on a passenger train any paraffin, diesel, petrol or explosives or other hazardous substance;
- (c) digs, excavates, drills, tunnels under or otherwise tampers with the ground within forty-five meters on either side of the middle of a railway track to the actual or potential detriment of the safety of railway traffic;

shall be guilty of an offence and, if there are no special circumstances peculiar to the case as provided for in subsection (4), liable to imprisonment for a period of not less than five years or more than ten years.

(4) A court sentencing a person to imprisonment under subsection (3) shall not order the suspension of any part of the sentence if the effect of such is that the convicted person will serve a sentence of less than five years.

(5) If a person referred to in subsection (3) satisfies the court that there are special circumstances peculiar to the case, which circumstances shall be recorded by the court, why the penalty provided under subsection (3) should not be imposed, the convicted person shall be liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding five years or both.

(6) Any driver of a train or other person employed in connection with the operation of a train or railway who performs his or her duties negligently or under the influence of alcohol or drugs in cases where the performance of his or her duties in those circumstances is likely to lead to serious injury to a person or serious damage to property shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or both.”;

- (e) in section 43 (“Regulations”) by the deletion “level six” and “one year” and the substitution of “level seven” and “eight months” respectively.

## **50 New section inserted in Cap. 14:20**

The Tourism Act [*Chapter 14:20*] is amended by the insertion of the following section after section 57—

### “58 Offences and penalties

(1) Any person who, being responsible therefor, fails or refuses to pay any levy or to collect or remit any levy in terms of this Act shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(2) Any person who—

- (a) hinders or obstructs the Chief Executive, a licensing officer or a designated officer in the exercise of his or her functions under this Act; or
- (b) without just cause, fails or refuses to answer to the best of his or her ability any question which the Chief Executive, a licensing officer or a designated officer, in the exercise of his or her functions under this Act, has put to him or her; or
- (c) without just cause, fails or refuses to comply to the best of his or her ability with any requirement which the Chief Executive, a licensing officer or a designated officer, in the exercise of his or her functions under this Act, has made or imposed;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(3) Any person who—

(a) publishes or causes to be published in any manner whatsoever any information relating to a designated tourist facility or licensed person, knowing such information to be false or misleading or not having reasonable grounds for believing it to be true; or

(b) falsely asserts or in any manner pretends that—

(i) he or she is the holder of a licence; or

(ii) any tourist facility is registered;

unless he or she has reasonable grounds for believing that he or she is the holder of such a licence or that the tourist facility is registered, as the case may be;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) Any person who knowingly furnishes to the Authority, the Chief Executive, a licensing officer or a designated officer any information which is false in a material respect or misleading shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”.

## **51 Amendment of sections 2 and 5 of Cap. 22:05**

The Exchange Control Act [*Chapter 22:05*] is amended—

(a) in section 2 (“Offences and penalties”) of the Exchange Control Act [*Chapter 22:05*] is amended by the insertion after subsection (4) of the following subsection—

“(5) Regulations, orders, rules or directions under this section that provide penalties for contraventions thereof may impose upon any person charged with a criminal offence the burden of proving particular facts.”;

(b) in section 5 (“Offences and penalties”)—

(i) in subsection (4) by the deletion of “Where a person” and the substitution of “Subject to subsections (4a), (4b), (4c) and (4d), where a person”;

(ii) by the insertion of the following subsection after subsection (4)—

“(4a) Where the offence of which a person is convicted in terms of subsection (1)(a) or (b) involves the exportation, externalisation or expatriation from Zimbabwe of any foreign currency, gold or precious stone that originated

from Zimbabwe or is the proceeds of any trade, business or other gainful occupation or activity carried on by him or her in Zimbabwe, the court shall—

(a) impose—

- A. a fine of not less than the value of the currency, gold or precious stone concerned; and
- B. a sentence of imprisonment not exceeding ten years, the whole of which shall be suspended on condition that the currency, gold or precious stone concerned is repatriated to Zimbabwe within a period specified by the court;

and

(b) in addition to the penalty specified in paragraph (a), impose a fine of three times the value of the currency, gold or precious stone concerned, unless the convicted person satisfies the court that there are special reasons in the particular case, which shall be recorded by the court, why a lesser fine should be imposed.

(4b) Where the offence of which a person is convicted in terms of subsection (1)(a) or (b) involves the failure or undue delay by a Zimbabwean resident who has the right to receive foreign currency outside Zimbabwe that was acquired by him or her by virtue of a trade, business or other gainful occupation or activity carried on by him or her in Zimbabwe—

- (a) to secure the receipt by him or her in Zimbabwe of the whole or part of the foreign currency receivable by him or her in Zimbabwe; and
- (b) to cause the foreign currency to be offered for sale to an authorized dealer or paid into a foreign currency account as soon as is reasonably possible in the circumstances;

the court shall—

(c) impose—

- (i) a fine of not less than the value of the foreign currency concerned; and
- (ii) a sentence of imprisonment not exceeding ten years, the whole of which shall be suspended on condition that the currency concerned is received in Zimbabwe offered for sale to an authorized dealer or paid into a foreign currency account within a period specified by the court;

and

(d) in addition to the penalty specified in paragraph (c), impose a fine of three times the value of the currency concerned, unless the convicted person satisfies the court that there are special reasons in the particular case, which shall be recorded by the court, why a lesser fine should be imposed.

(4c) Where the offence of which a person is convicted in terms of subsection (1)(a) or (b) involves the unlawful exportation of any of the following items—

- (a) any Zimbabwean currency, foreign currency or any postal order or money order; or
- (b) any—
  - (i) certificate of title to any security; or
  - (ii) coupon; or
  - (iii) bill or exchange or promissory note; or
  - (iv) insurance policy;

including any such document which has been cancelled and any document certifying the destruction, loss or cancellation of any such document or of any foreign currency document; or

- (c) any gold, silver or platinum or any article manufactured from or containing gold, silver or platinum; or
- (d) any precious or semiprecious stone or pearl whose value exceeds such amount as is prescribed in an order made by the Reserve Bank, or any article mounted or set with a precious or semiprecious stone or pearl whose value exceeds such amount as is so prescribed.

the court shall—

- (e) impose—
  - (i) a fine of not less than the value of the item concerned; and
  - (ii) a sentence of imprisonment not exceeding ten years, the whole of which shall be suspended on condition that the item concerned be repatriated to Zimbabwe within a period specified by the court;

and
- (f) in addition to the penalty specified in paragraph (e), impose a fine of three times the value of the item concerned, unless the convicted person satisfies the court that there are special reasons in the particular case, which shall be recorded by the court, why a lesser fine should be imposed.

For the purposes of this subsection, “unlawful” means contrary to the conditions, or outside the scope of any exceptions, prescribed in regulations made in terms of section 2(1).

(4d) Where the offence of which a person is convicted in terms of subsection (1)(a) or (b) involves the sale within Zimbabwe by a specified registered operator of any commodity in foreign currency without being licensed to so by the Reserve Bank, the court shall impose a fine of up to level fourteen or five times the value of the commodity concerned, whichever is the higher.

For the purposes of this subsection, “specified registered operator” means a corporate entity that is the operator of—

- (a) a retail shop; or
  - (b) a petroleum undertaking; or
  - (c) any other class of undertaking specified by order of the Reserve Bank.
- (iii) by the insertion after subsection (9) of the following subsections—

“(10) Notwithstanding anything contained in this Act, section 41 of the Reserve Bank Act [*Chapter 22:15*] or any other enactment, but subject to subsection (11), a fine payable in terms of subsection (3), (4), (4a), (4b), (4c) and (4d) shall only be payable in United States dollars, euros, British pounds, South African rand or Botswana pula, or any combination of the foregoing as the court may allow:

Provided that where the court denominates the fine in any one of the currencies specified in this subsection, the person required to pay the fine has the option of paying it in any one of the other currencies specified in this subsection at the international cross rate of exchange of the first-mentioned currency for second-mentioned currency prevailing on the day the fine is imposed by the court.

(11) A fine payable in terms of subsection (4a)(b), (4b)(d) or (4c)(f) shall, at the option of the person required to pay the fine, be payable in Zimbabwean or foreign currency.”.

## 52 Amendment of Cap. 24:20

The Banking Act [*Chapter 24:20*] (No. 9 of 1999) is amended—

- (a) in section 2 (“Interpretation”) (1) by the insertion of the following definitions—

““microfinance bank” means a banking institution—

- (a) that limits any credit facility to any single borrower to a maximum of five *per centum* of its capital base; and
- (b) whose business mainly consists of the provision of credit to either or both of the following—
  - (i) small or medium enterprises as defined in the Twenty-Ninth Schedule to the Income Tax Act [*Chapter 23:06*];
  - (ii) individuals whose monthly income is below the poverty datum line or whose monthly income does not exceed five times the poverty datum line;

“poverty datum line” means the estimated minimum level of income needed by a family of four to secure the necessities of life, as issued from time to time by the Zimbabwe National Statistics Agency established under the Census and Statistics Act [*Chapter 10:29*] (No. 1 of 2007);”;

- (b) in section 5 (“Application of Act”) by the insertion of the following subsection after subsection (4)—

“(5) The Minister may, by regulations made in terms of section 81, specify that any of the provisions of this Act shall not apply to microfinance banks, or apply any of those provisions subject to such modifications as the Minister shall prescribe.”;

- (c) in section 6 (“Classes of banking business”) (1) by the insertion of the following paragraph after paragraph (d)—

“or

(e) the business of a microfinance bank;”;

- (d) with effect from the 11<sup>th</sup> December, 2008, in section 29 (“Minimum equity capital of banking institution”) by the insertion of the following subsection after subsection (1)—

“(1a) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], the Minister may for the purposes of subsection (1) prescribe that the minimum paid-up equity capital of banking institutions be maintained in any specified foreign currency denominated under the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment substituted for the same.”;

- (e) in section 81 (“Regulations”) (2) by the insertion of the following paragraph after paragraph (f)—

“(g) the control and regulation of microfinance banks.”.

### **53 Amendment of section 48 of Cap. 24:24**

Section 48 (“Penalties”) of the Bank Use Promotion and Suppression of Moneylaundering Act [*Chapter 24:24*] is amended—

- (a) in the proviso to subsection (2) by the deletion of “level eight” and “six months” and the substitution of “level fourteen” and “five years” respectively;
- (b) with effect from the 12<sup>th</sup> December, 2008, by the insertion of the following subsection after subsection (2)—

“(3) Regulations in terms of subsection (1) that provide penalties for contraventions thereof may impose upon any person charged with a criminal offence the burden of proving particular facts.”.

### **54 Amendment of Cap. 29:13**

With effect from the 1<sup>st</sup> April, 2009, the Rural District Councils Act [*Chapter 29:13*] is amended—

- (a) by the insertion of the following section after section 97—

“97A Special unit tax on A1 and A2 farms

(1) In this section and the Fourth Schedule—

“farm” means a Model A1 farm or a Model A2 farm;

“holder”, in relation to an offer letter, means the holder of an offer letter who has indicated that he or she has accepted the offer of an A1 or A2 farm described in the letter but who is not yet a party to a land settlement lease or the holder of a land settlement permit, as the case may be;

“land settlement lease” means a ninety-nine year lease of a Model A2 farm;

“land settlement permit” means a permit relating to the occupation of a Model A1 farm;

“lessee” means the lessee under a land settlement lease;

“Model A1 farm” means a farm allocated by the State on the basis of a village settlement concept as envisaged by the Land Reform and Resettlement Programme published in 2001 and amended from time to time;”;

“Model A2 farm” means a farm allocated by the State under the Commercial Farm Settlement Scheme administered under the Agricultural Land Settlement Act [*Chapter 20:01*],

“offer letter” means a letter issued by or on behalf of the Minister responsible for the Gazetted Land (Consequential Provisions) Act [*Chapter 20:28*] (No. 8 of 2006) that offers to allocate an A2 farm to the person to whom the letter is addressed;

“special unit tax” means the unit tax payable in terms of this section and the Fourth Schedule.

(2) Every council shall impose a special unit tax upon all persons who, on or after the date of commencement of the Finance Act, 2009, are or become lessees or holders of offer letters or land settlement permits.

(3) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], the special unit tax shall only be payable in United States dollars, euros, British pounds, South African rand or Botswana pula:

Provided that where a person wishes to tender payment of the special unit tax in euros, British pounds, South African rand or Botswana pula, the amount of special unit tax payable shall be that obtained by applying the international cross rate of exchange of the currency in question for the United States dollars prevailing on the day the tax is paid.

(4) The special unit tax shall be assessed upon the persons upon whom it is imposed in terms of subsection (1) in accordance with the Fourth Schedule.

(5) The special unit tax shall be imposed in order to meet expenditure (duly reflected in estimates or supplementary estimates prepared and approved in terms of Part XIII) on the following matters—

- (a) gully reclamation and other works related to soil conservation and the prevention of soil erosion; and

- (b) the provision, operation and maintenance of—
  - (i) hospitals, clinics and dispensaries; and
  - (ii) schools and other educational institutions and facilities and amenities connected therewith;
- (c) the provision and maintenance of dipping tanks; and
- (d) the provision, development and maintenance of roads.

(6) Persons who are liable to pay special unit tax shall not be liable to pay any land development levy imposed in terms of section 96 or any special land development levy imposed in terms of section 97 in respect of—

- (a) the ownership or leasing of rural land within the council area; or
- (b) the occupation and use under a permit issued in terms of section 9 of the Communal Land Act [*Chapter 20:04*], of any portion of rural land within a communal ward of the council.

(7) Section 151 applies to the recovery of any unpaid special unit tax.”;

- (b) by the insertion of the following Schedule after the Third Schedule—

#### “FOURTH SCHEDULE

##### SPECIAL UNIT TAX ON A1 AND A2 FARMS (*Section 97A*)

##### *Interpretation*

1. In this Schedule—

“Natural Region” means a Natural Region specified in section 3 of the Rural Land (Farm Sizes) Regulations, 1999, published in Statutory Instrument 419 of 1999, or any other law that may be substituted for those regulations;

“quarter” means a period of three months ending on the 31st March, 30th June, 30th September and 31st December in each year.

##### *Liability for and rate of special unit tax*

2.(1) Every lessee and every holder of an offer letter or land settlement permit in respect of a farm located in the Natural Region shown in the first column of the Annexure shall pay to the council within whose area the farm is situated the special unit tax indicated opposite thereto in the second column.

(2) Subsection (1) does not apply to the holder of an offer-letter who has not obtained vacant possession of the farm to which the offer letter relates:

Provided that such holder shall be deemed to have obtained vacant possession of the farm concerned if the previous owner or occupier of the farm has vacated it or no longer occupies it, whether or not the holder of the offer-letter actually occupies the farm himself or herself.

- (3) If the holder of an offer-letter—

- (a) obtains the offer letter after the date of commencement of the Finance Act, 2009; or
- (b) is not, on or at any time after the date of commencement of the Finance Act, 2009, liable to pay special unit tax because he or she has not obtained vacant possession of the farm to which the offer letter relates;

the full amount of special unit tax shall be payable in respect of the quarter during which he or she obtains such letter or obtains vacant possession of the farm, as the case may be.

*Liability of joint occupiers*

3. If any farm is occupied or used in undivided shares by two or more persons, such holders or users shall for the purposes of subsection (2)—

- (a) be regarded as a single person; and
- (b) inform the council concerned which one of them will be liable for the payment of special unit tax and, if they fail so to inform such council, any special unit tax may be recovered from any one of them.

*Calculation of special unit tax*

4. For the purpose of calculating the amount of special unit tax due in any quarter the appropriate amount indicated in the second column of the Annexure shall be divided by four and multiplied by the hectarage of the farm as indicated in the offer letter, land settlement permit or land settlement lease.

*Unsurveyed farms*

5.(1) If a person occupies or uses any farm the area of which has not been ascertained by survey, the council concerned may estimate the area thereof for the purpose of assessing the special unit tax on such farm, and the area as so estimated shall be deemed to be the area of such farm until it has been ascertained by survey.

(2) If the area of a farm referred to in subsection (1) ascertained by survey is—

- (a) greater than the estimated area of such farm, the person concerned shall not be liable to pay retrospectively any additional special unit tax in respect of the excess; or
- (b) less than the estimated area of such farm, the council shall not be liable to refund any special unit tax in respect of the shortfall.

*Additional sanction for non-payment of special unit tax*

6.(1) The Minister responsible for the Gazetted Land (Consequential Provisions) Act [*Chapter 20:28*] (No. 8 of 2006) shall, at the written request of the council concerned, cancel the offer letter of any holder thereof who fails for three consecutive quarters: to pay special unit tax to the council within whose area the farm referred to in the letter is situated.

Provided that if the holder of the offer-letter tenders payment of the full amount of special unit tax due within thirty days after receiving written notice of cancellation of his or her offer letter, the offer letter shall be deemed not to have been cancelled.

(2) The provisions of a land settlement lease or land settlement permit concerning the cancellation of the lease or permit shall apply where the lessee or permit-holder fails to pay any special unit tax.

## ANNEXURE

### RATES OF SPECIAL UNIT TAX

<i>Natural Region</i>	<i>Rental</i>
1	\$3 United States per hectare <i>per annum</i>
2	\$3 United States per hectare <i>per annum</i>
2a	\$3 United States per hectare <i>per annum</i>
2b	\$3 United States per hectare <i>per annum</i>
3	\$2 United States per hectare <i>per annum</i>
4	\$2 United States per hectare <i>per annum</i>
5	\$1 United States per hectare <i>per annum</i> .”.

### **55 References to old currency system in enactments**

Every amount in an enactment expressed in terms of the old currency system shall, on and after the 31<sup>st</sup> January, 2009, be construed in accordance with the new currency system:

In this section “new currency system” and “old currency system” have the meanings given to those terms in section 2(1) of the Presidential Powers (Temporary Measures) (Currency Revaluation and Issue of New Currency) Regulations, published in Statutory Instrument 6 of 2009.

### **56 Saving of powers exercised under SI 109 of 2008 and SI 6 of 2009**

Every—

- (a) order or direction made; and
- (b) action or decision taken or thing done by the Minister of Finance or the Governor of the Reserve Bank of Zimbabwe or any officer or employee of the Ministry of Finance or Reserve Bank;

in the valid exercise of any power in terms of the Presidential Powers (Temporary Measures) (Currency Revaluation and Issue of New Currency) Regulations, 2008, published in Statutory Instrument 109 of 2008, and the Presidential Powers (Temporary Measures) (Currency Revaluation and Issue of New Currency) Regulations, published in Statutory Instrument 6 of 2009, shall, notwithstanding the lapsing of those regulations, be deemed to have been validly made, taken or done, as the case may be, in terms of this Act.

**57 Repeal of SI 5 of 2009**

The Bank Use Promotion and Suppression of Money Laundering (Acceptance of Zimbabwe Dollar Banknotes and Coins) Regulations, published in (Statutory Instrument 5 of 2009).

**58 Confirmation of regulations made under section 3 of Cap. 23:04**

The regulations made in terms of section 3 of the Finance Act [*Chapter 23:04*] that are specified in the Schedule are confirmed.

SCHEDULE (*Section 58*)

## CONFIRMATION OF REGULATIONS MADE UNDER SECTION 3 OF CAP. 23:04

<i>Title</i>	<i>Statutory Instrument.</i>
Finance (Amendment of Section 14(2)(a) and Schedule to Chapter I of Finance Act and Income Tax Acts) Regulations, 2008 .....	46A of 2008
Finance (Amendment of Section 14(2)(a) and Schedule to Chapter I of Finance Act and Income Tax Acts) (No. 2) Regulations, 2008.....	63 of 2008
Finance (Amendment of Section 14(2)(a) and Schedule to Chapter I of Finance Act and Income Tax Acts) (No. 3) Regulations, 2008.....	90 of 2008
Finance (Amendment of Section 14(2)(a) and Schedule to Chapter I of Finance Act and Income Tax Acts) (No. 4) Regulations, 2008.....	111 of 2008
Finance (Amendment of Section 14(2)(a) and Schedule to Chapter I of Finance Act and Income Tax Acts) (No. 5) Regulations, 2008.....	132 of 2008
Finance (Amendment of Section 22E(1) and 22H of Finance Act) Regulations, 2008 .....	133 of 2008
Finance (Amendment of Finance and Income Tax Acts) Regulations, 2008 .....	149 of 2008
Finance (Amendment of Finance and Income Tax Acts) (No. 2) Regulations, 2008 .....	166 of 2008