Act 6 of 2006
Gazetted and into operation on 1st September, 2006.

FINANCE ACT, 2006

ARRANGEMENT OF SECTIONS

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Section

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ACT

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

ENACTED by the President and the Parliament of Zimbabwe.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Finance Act, 2006.

PART II

INCOME TAX

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

2 Amendment of section 14 of Cap. 23:04

Section 14 ("Income tax for periods of assessment after 1.4.88") of the Finance Act [*Chapter 23:04*] is amended in subsection (2) by the repeal of paragraph (a) and the substitution of-

(a) the following, with effect from the period beginning on the 1st January, 2006, and ending the 31st August, 2006, of the year of assessment beginning on the 1st January, 2006-

"(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 fifty-six million dollars;

(ii) so much as exceeds fifty-six million dollars but does not exceed one hundred and twenty-eight million dollars;

(iii) so much as exceeds one hundred and twenty-eight million dollars but does not exceed two hundred and twenty-four million dollars;

(iv) so much as exceeds two hundred and twenty-four million dollars but does not exceed three hundred and twenty million dollars;

(v) so much as exceeds three hundred and twenty million dollars;";

(b) the following, with effect from the period beginning on the 1st September, 2006, and ending the 31st December, 2006, of the year of assessment beginning on the 1st January, 2006-

"(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 eighty million dollars;

(ii) so much as exceeds eighty million dollars but does not exceed one hundred and twenty million dollars;

(iii) so much as exceeds one hundred and twenty million dollars but does not exceed one hundred and sixty-eight million dollars;

(iv) so much as exceeds one hundred and sixty-eight million dollars but does not exceed two hundred and sixteen million dollars;

(v) so much as exceeds two hundred and sixteen million dollars;".

3 Amendment of section 22B of Cap. 23:04

With effect from the 1st August, 2006, section 22B ("Automated financial transactions tax") of the Finance Act [*Chapter 23:04*] is amended by the deletion of "five hundred dollars" and the substitution of "ten thousand dollars".

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

Section 22E ("Carbon tax") of the Finance Act [*Chapter 23:04*] is amended-

(a) with effect from the 1st August, 2006, in subsection (1) by the deletion of "one thousand dollars per litre" and the substitution of "five thousand dollars per litre";

(b) with effect from the 1st January, 2006, in subsection (1) by the insertion after "other person or entity engaged in oil procurement" of the words "or wishing to use the petroleum product for his or her own consumption";

(c) with effect from the 1st January, 2006, in subsection (2)(a), (b), (c) and (d) by the repeal of "per month".

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

With effect from the 1st August, 2006, section 22H ("NOCZIM debt redemption levy") of the Finance Act [*Chapter 23:04*] is amended by the deletion of "hundred and ten dollars per litre" and the substitution of "twenty-five thousand dollars per litre".

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

The Schedule ("Credits and Rates of Income Tax") to Chapter I of the Finance Act [*Chapter 23:04*] is amended in Part II with effect from the initial dates of the following periods of the year of assessment beginning on the 1st January, 2006, namely, the period beginning on the 1st January, 2006, and ending the 31st August, 2006, and the period beginning on the 1st September, 2006, and ending on the 31st December, 2006, respectively, by the deletion of the items relating to the level of taxable income and the substitution of-

"*Section*	*Level of taxable income 1/1/06 – 31/8/06*	*Specified percentage %*
14(2)(a)(i))	Up to $56 000 000...	0
14(2)(a)(ii)	$56 000 001 to $128 000 000	20
14(2)(a)(iii)	$128 000 001 to $224 000 000	25

14(2)(a)(iv)	$224 000 001 to $320 000 000	30
14(2)(a)(v)	$320 000 001 and more	35

Section	*Level of taxable income 1/9/06 – 31/12/06*	*Specified percentage %*
14(2)(a)(i))	Up to $80 000 000..	0
14(2)(a)(ii)	$80 000 001 to $120 000 000	20
14(2)(a)(iii)	$120 000 001 to $168 000 000	25
14(2)(a)(iv)	$168 000 001 to $216 000 000	30
14(2)(a)(v)	$216 000 001 and more	35".

Amendments to Income Tax Act [Chapter 23:06]

7 Amendment of section 2 of Cap. 23:06

Section 2 ("Interpretation") (1) of the Income Tax Act [*Chapter 23:06*] is amended in the definition of "year of assessment" by the insertion of the following proviso after proviso (iv)-

"(v) the year of assessment beginning on the 1st January, 2006, in respect of the taxable income from employment of a person other than a company, a trust or a pension fund, consists of the following two periods-

A. the eight-month period beginning on the 1st January, 2006, and ending on the 31st August, 2006;

B. the four-month period beginning on the 1st September, 2006, and ending on the 31st December, 2006.".

8 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 year of assessment beginning on the 1st September, 2006, by the repeal of proviso (x) to paragraph (f)II and the substitution of-

"(x) in the case of a sale or disposal of a motor vehicle to an employee, whether during or on termination of the employee's employment, in respect of the period of the year of assessment beginning on the 1st September, 2006, and any subsequent year of assessment, the deemed benefit shall be determined in accordance with the following formula-

$$\mathbf{A-(B+C)}$$

where-

A represents the market value of the motor vehicle;

B represents the cost at which the employer acquired the motor vehicle;

C represents the figure B to which the inflation allowance is applied, which allowance is to be determined in accordance with the following formula:

$$\mathbf{\frac{D-E}{E} \times B}$$

where-

D is the figure for the Transport Consumer Price Index issued by the Central Statistics Office at time of disposal of the car by employer to the employee;

E is the figure for the Transport Consumer Price Index issued by the Central Statistics Office at time of purchase of the car by employer:

Provided that no advantage or benefit shall be deemed to have accrued to an employee who, on the date of the sale or disposal is of or over the age of fifty-five. In determining the market value of a motor vehicle for the purposes of subparagraph (x), the Commissioner-General shall have regard to the valuation of a member of such institution or association of motor dealers or valuers as is prescribed by the Commissioner-General by notice in the *Gazette*.".

9 Amendment of section 72 of Cap. 23:06

With effect from the 1st September, 2006, section 72 ("Payment of provisional tax") of the Income Tax Act [*Chapter 23:06*] is amended by the repeal of subsections (3) and (4) and the substitution of-

"(3) Every provisional taxpayer shall, during every period within which provisional tax is or may be payable, submit to the Commissioner-General, together with a return in the form prescribed by the Commissioner-General, an estimate of the total taxable income which will be derived by the taxpayer in the year of assessment in respect of which provisional tax is or may be payable by the taxpayer.

(4) If any provisional taxpayer fails to submit any estimate or return as required by subsection (3), the Commissioner-General may estimate the taxable income which is required to be estimated, and such estimate shall be final and conclusive.".

10 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 with effect from the year of assessment beginning on the 1st January, 2006-

(a) in paragraph 4 by the repeal of paragraph (v) and the substitution of–

"(v) rental income to a taxpayer who is of or over the age of fifty-five in respect of the first one hundred and forty-four million dollars accruing to the taxpayer in the year of assessment concerned.";

(b) in paragraph 10(1)-

(i) in paragraph (n) by the deletion of "fifty-nine years" and "seventy-two million dollars" and the substitution of "fifty-five years" and "one hundred and forty-four million dollars" respectively;

(ii) by the repeal of paragraph (o) and the substitution of-

"(o) banker's acceptances and other discounted instruments traded by financial institutions and accruing to a taxpayer who is of or over the age of fifty-five years, in respect of the first one hundred and forty-four million dollars accruing to the taxpayer in the year of assessment concerned.".

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

With effect from the 1st September, 2006, the Twenty-Sixth Schedule ("Presumptive Tax") to the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following section after section 12-

"Taxicab and omnibus operators to carry tax clearance certificates in vehicles

12A. (1) Every tax clearance certificate issued to the operator of an omnibus or taxicab shall be carried in the omnibus or taxicab to which it relates.

(2) If any tax clearance certificate is lost or destroyed or any essential particulars thereon have become defaced or if the certificate is dilapidated, the Commissioner-General, on application by the holder thereof and on payment of the fee, if any, prescribed, shall issue a duplicate tax clearance certificate.

(3) A police officer may demand that any operator or person in charge of an omnibus or taxicab produce a tax clearance certificate as proof that he or she has paid the presumptive tax payable in respect of the omnibus or taxicab.

(4) Subject to subsection (5), any person in charge of an omnibus or taxicab who does not carry a tax clearance certificate as required by subparagraph (1) or who fails to produce it as required by subparagraph (3) shall, whether or not he or she is the operator of the omnibus or taxicab, be guilty of an offence and liable to a fine equal to the amount of the presumptive tax payable for the omnibus or taxicab or, in default of payment, to imprisonment for a period not exceeding six months:

Provided that if the failure to carry a tax clearance certificate was due to its loss or destruction and not to non-payment of presumptive tax, a police officer may require the person in charge of the omnibus or taxicab concerned or, if he or she is not the operator of the omnibus or taxicab, the operator thereof, to produce a duplicate certificate within seven days at such place as the police officer shall specify.

(5) A person referred to in subparagraph (4) may sign and deliver to the police officer referred to in that subparagraph a document admitting that he or she is guilty of the said offence and deposit with such officer a fine equal to the amount of the presumptive tax payable for the omnibus or taxicab, and such person shall thereupon, subject to subparagraph (6), not be required to appear in court to answer the charge of having committed the said offence.

(6) Section 356 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply to the procedure to be followed in relation to an admission of guilt made under subparagraph (4).

(7) The Zimbabwe Republic Police shall furnish to the Commissioner-General the name of every person who has compounded or been convicted of an offence in terms of this paragraph.".

12 Amendment of Twenty-Eighth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Twenty-Eighth Schedule to the Income Tax Act [*Chapter 23:06*] is amended by the repeal of paragraph 2 and the substitution of-

"Payment of carbon tax under section 22E(1)

2. Whenever an oil company or other person or entity engaged in oil procurement or wishing to use the petroleum product for his or her own consumption imports any petroleum product, he or she shall pay the required carbon tax to the Zimbabwe Revenue Authority at the port of entry of the petroleum product.".

13 Treatment of pension contributions for the purposes of the Sixth Schedule to Cap. 23:06

If a pension contribution in terms of the Sixth Schedule to the Income Tax Act [*Chapter 23:06*] was paid in each of the deemed years of assessment ending on the 31st August and 31st December, 2006, the pension contributions shall, for the purposes of that Schedule, be aggregated and treated as if they were a single pension contribution paid in a single year of assessment consisting of twelve months ending on the 31st December, 2006.

PART III

VALUE ADDED TAX

14 Amendment of section 6 of Cap. 23:12

With effect from the 1st January, 2006, section 6 ("Value-added tax") of the Value Added Tax Act [*Chapter 23:12*] is amended in subsection (1)(a) by the insertion of the following proviso thereto-

"Provided that this paragraph shall not apply to the supply of second-hand motor vehicles that are subject to special excise duty on sales or disposals of second-hand motor vehicles referred to in section 172B of the Customs and Excise Act [*Chapter 23:02*].".

15 Amendment of section 13 of Cap. 23:12

With effect from the 1st January, 2006, section 13 ("Collection of value-added tax on imported services, determination of value thereof and exemptions from tax") of the Value Added Tax Act [*Chapter 23:12*] is amended-

(a) in subsection (1) by the deletion of "Subject to subsection (2a), where tax is payable" and the substitution of "Where tax is payable";

(b) by the repeal of subsection (2a).

16 Amendment of section 38 of Cap. 23:12

With effect from the 1st January, 2006, section 38 ("Manner in which tax shall be paid") of the Value Added Tax Act [*Chapter 23:12*] is amended-

(a) in subsection (1) by the deletion of "Subject to subsection (3) of section *six* and subsections (4) and (5) of section *twelve*," and the substitution of "Subject to this section and sections 6(3) and 12(4) and (5),";

(b) by the insertion of the following subsection after subsection (3)-

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

In this subsection, "foreign currency" means United States dollars, Euros 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.".

PART IV

CAPITAL GAINS TAX

Amendment to Finance Act [Chapter 23:04]

17 Amendment section 10 of Cap. 23:04

With effect from the 1st January, 2006, section 10 ("Exemptions from capital gains tax") (1) of the Finance Act [*Chapter 23:04*] is amended by the deletion of "subsection (1) of section *twenty-two*" and "fifty-nine years" and the substitution of "section 21(1)" and "fifty-five years" respectively.

18 Amendment section 39 of Cap. 23:04

With effect from the 17th October, 2005, section 39 ("Rates of capital gains withholding tax") of the Finance Act [*Chapter 23:04*] is amended by the repeal of paragraphs (b) and (c) and the substitution of-

"(b) in the case of a sale of a marketable security that is a listed security, five *per centum* of the price at which the security was sold;

(c) in the case of a sale of a marketable security other than a security referred to in paragraph (b), ten *per centum* of the price at which the security was sold.".

Amendments to Capital Gains Tax Act [Chapter 23:01]

19 Amendment of section 2 of Cap. 23:01

With effect from the 1st September, 2006, section 2 (Interpretation") (1) of the Capital Gains Tax Act [*Chapter 23:01*] is amended by the insertion of the following definition-

""approved employee housing trust fund" means an arrangement embodied in a notarised trust deed which satisfies the Commissioner-General that its dominant purpose or effect is to enable a company or group of companies to finance and construct housing for its employees on terms that will eventually allow the employees to acquire ownership of their homes from the trust;".

20 Amendment of section 8 of Cap. 23:01

With effect from the 1st September, 2006, section 8 ("Interpretation of terms relating to capital gains tax") (2) of the Capital Gains Tax Act [*Chapter 23:01*] is amended by the insertion of the following proviso to paragraph (b)-

"Provided that this paragraph does not apply to the donation by a company or group of companies of immovable property to an approved employee housing trust fund;".

PART IV

CUSTOMS AND EXCISE

21 New section inserted after section 172B of Cap. 23:02

With effect from the 1st January, 2006, the Customs and Excise Act [*Chapter 23:02*] is amended by the insertion after section 172B of the following section-

172BB Liability for and date of payment of excise duty on sales of second-hand motor vehicles, keeping of records and making of returns in respect thereof and refunds of overpayments

(1) The following are liable to pay special excise duty on the value of second-hand motor vehicles sold, transferred or otherwise disposed of to any person-

(a) a motor dealer as defined in section 2(1) of the Value Added Tax Act [*Chapter 23:12*], if the second-hand motor vehicle is sold by or through that motor dealer; or

(b) the buyer of a second-hand motor vehicle, if it is sold otherwise than by or through a motor dealer referred to in paragraph (a).

(2) Every motor dealer shall, in respect of each second-hand motor vehicle sold by or through him or her-

(a) maintain a record showing the amount paid for the motor vehicle and the amount of special excise duty withheld from each such amount, and such record shall be retained by the motor dealer and shall be available for scrutiny by an officer; and

(b) remit each amount of special excise duty withheld in terms of paragraph (a) to any branch, division or department of the Zimbabwe Revenue Authority on or before the twentieth day of the month following that on which payment of the special excise duty was made, together with a return referred to subsection (3).

(3) When remitting any amount of special excise duty in terms of subsection (2)(b) the motor dealer shall furnish together with the remittance a return in such form as may be prescribed by the Commissioner-General showing the name and address of each buyer of a second-hand motor vehicle in relation to which the remittance is made, and the date of the sale.

(4) Subject to subsection (6), any motor dealer who fails to withhold or to pay to the Commissioner-General any amount of special excise duty in terms of subsection (2) shall be personally liable for the payment to the Commissioner-General of-

(a) the amount of special excise duty which he or she failed to withhold or to pay to the Commissioner-General; and

(b) a further amount equal to such special excise duty.

(5) The amounts for the payment of which a motor dealer is liable in terms of subsection (4)-

(a) shall be debts due by the motor dealer to the State; and

(b) may be sued for and recovered by action by the Commissioner-General in any court of competent jurisdiction.

(6) The Commissioner-General may, if he or she is satisfied that a failure to withhold or to pay to him or her special excise duty was not due to an intent to evade the provisions of this

section, 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 any amount referred to in subsection (4)(b).

(7) If any motor dealer liable to special excise duty under this section-

(a) fails to keep such record as is required by subsection (2)(a) or fails to produce such record when required by an officer to do so; or

(b) fails to make in such record any entry required to be made therein or fraudulently makes any entry in such record; or

(c) erases or obliterates any entry in such record; or

(d) mutilates or tears therefrom any leaf or page; or

(e) by himself or herself or through the agency or with the assistance of any other person, destroys, conceals or makes away with such record; or

(f) refuses to allow an officer at any time to inspect such record or obstructs or hinders him or her in such inspection; or

(g) neglects or refuses to furnish any return specified in subsection (2)(b) within the time specified for the furnishing of such return; or

(h) sends in a false return; or

(i) neglects or refuses to give such further information with respect to the disposal by or through him or her of second-hand motor vehicles as an officer may from time to time require;

he or she shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(8) If it is proved to the satisfaction of the Commissioner-General that any person has paid special excise duty in excess of the amount properly chargeable in terms of this Part, the Commissioner-General shall authorise a refund in so far as it has been overpaid.".

22 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 by the insertion after paragraph (l) of the following paragraph-

"(m) the designation at ports of entry of parking spaces for vehicles, the conditions for the parking of vehicles thereat, the creation of offences and imposition of penalties for the parking of vehicles in contravention of those conditions, the payment of deposit fines for breaches of such offences, and the impoundment of vehicles in respect of which it is alleged that any offence against regulations made in terms of this paragraph has been committed.".

PART V

AMENDMENT OF OTHER ACTS

23 Amendment of section 11A of Cap. 8:07

(1) With effect from the 1st January, 2006, section 11A ("Exclusion of *in duplum* rule in certain cases") of the General Law Amendment Act [*Chapter 8:07*] is amended by the repeal of subsections (2) and (3) and the substitution of the following subsection-

"(2) For the avoidance of doubt it is declared that the rule of the common law known as the *in duplum* rule that prohibits the payment of outstanding interest in excess of the amount representing the capital or principal sum of a debt does not apply to fiscal debts, that is, to debts by way of outstanding taxes or duties or penalties in respect of the non-payment thereof that are owed to the Authority by a person liable to pay such taxes, duties or penalties under the Scheduled Acts.".

(2) For the avoidance of doubt it is declared that section 11A(2) of the General Law Amendment Act [*Chapter 8:07*] as substituted by this Act states the law as it was before the date of commencement of the Finance (No. 2) Act, 2005.

24 Amendment of Act No. 10 of 2005

The African Export-Import Bank (Membership of Zimbabwe and Branch Office Agreement) Act, 2005 (No. 10 of 2005) is amended-

(a) by the repeal of section 1 and the substitution of-

> **"1 Short title**
>
> This Act may be cited as the African Export-Import Bank (Membership of Zimbabwe and Branch Office Agreement) Act [*Chapter 22:17*].";

(b) in section 3 ("Provisions of the Bank Agreement to have the force of law") by the repeal of proviso (b) thereto.