
H.B. 11, 2006
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FINANCE BILL, 2006

MEMORANDUM

This Bill will amend the Finance Act [*Chapter 23:04*], the Income Tax Act [*Chapter 23:06*], the Value Added Tax Act [*Chapter 23:12*], the Capital Gains Tax Act [*Chapter 23:01*] and the Customs and Excise Act [*Chapter 23:02*], the General Law Amendment Act [*Chapter 8:07*] and the African Export-Import Bank African Export-Import Bank (Membership of Zimbabwe and Branch Office Agreement) Act (No. 10 of 2005). 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.

PART II
INCOME TAX
Amendments to Chapter I of Finance Act [Chapter 23:04]

Clause 2

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

This clause will alter the income "bands" according to which rates of income tax are calculated. The main alteration is to the minimum level of income that will attract income tax. At present this minimum is $84 000 000 a year, and this clause will increase that amount to $240 000 000. The new bands will apply for the period from the 1st September to the 31st December, 2006.

Clause 3

This clause will increase the rate of automated financial transactions tax (the tax payable on cash withdrawals effected through an ATM) from $500 to $10 000 per withdrawal.

Clauses 4 and 12

The Finance (No. 2) Act, 2005, changed the 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. Clause 4 seeks to raise the level of that tax from $1 000 per litre of imported petroleum product to $5 000, payable with effect from the 1st August, 2006. This clause (together with clause 12) also seeks to extend the scope of the tax to those persons importing petroleum products for own consumption: such persons have been charged this tax since the 1st January, 2006; accordingly, paragraph (b) of this clause backdates this provision to that date.

Clause 5

The NOCZIM debt redemption levy was introduced by the Finance Act, 2003, with effect from the 1st December, 2003, to assist the State oil procurer in amortising its accumulated debt. This clause seeks to increase this levy from $110 per litre to $25 000 per litre of a petroleum product purchased by an oil company from NOCZIM or imported by an oil company.

Clause 6

This clause will partly replace the Schedule to Chapter I of the Finance Act, which sets out the rates of income tax payable by various classes of taxpayers. As indicated in connection with clause 2 above, the income "bands" will be altered.

Amendments to Income Tax Act [Chapter 23:06]

Clause 7

This clause will amend definitions of the term "year of assessment" in section 2 of the Income Tax Act to take account of the alteration of the tax bands to take effect for the period from the 1st September to the 31st December, 2006.

Clause 8

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. The Finance (No. 2) Act, 2005, introduced a formula to calculate the cost to the employer of an advantage or benefit accruing to an employee from the sale or disposal to that employee of a company motor vehicle, with a view to ensuring that the employee was not unfairly disadvantaged by inflation. This clause seeks to clarify and refine that formula.

Clause 9

Section 72 of the Income Tax Act deals with the payment of provisional tax. The Finance (No. 2) Act, 2004, replaced section 72 with a new section that made everyone whose taxable income includes amounts that are not subject to employees' tax (PAYE) pay provisional tax in quarterly instalments over the calendar year in the year of assessment in which the income accrued (instead of paying provisional in the following year of assessment). This clause will require provisional taxpayers to submit Quarterly Payment Date Corporate Tax Return Forms together with their quarterly payments in order to verify the basis on which provisional taxpayers calculate the amount of tax due on their forecast income.

Clause 10

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

Paragraphs 4(v) and 10(1)(n) of the Third Schedule to Income Tax Act exempts from tax amounts of up to $72 000 000 accruing to persons aged 59 years and above by way of rental income and interest from discounted securities. The effect of this clause is to lower the qualifying age for these exemptions from 59 to 55 years, and to increase exempted figure to $144 000 000.

Clause 11

This clause will add an additional paragraph to the Twenty-Sixth Schedule ("Presumptive Tax") to the Income Tax Act, the effect of which is to put drivers or operators of taxicabs and omnibuses under a legal obligation to carry in their vehicles tax clearance certificates in proof of payment of the presumptive tax payable by them, and to produce these certificates on demand by law enforcement officers.

PART III
VALUE ADDED TAX

Clause 14

This clause seeks to amend section 6 of the Value Added Tax Act by excluding from the scope of that Act 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. The latter duty was introduced by Finance (No. 2) Act, 2005.

Clauses 15 and 16

The amendment of section 13 of the Value Added Tax Act introduced by the Finance (No. 2) Act, 2005, appeared to suggest that all registered operators are required to pay VAT in foreign currency in respect of the importation of services. These amendments make it clear that what is intended is the payment of VAT in foreign currency only if the VAT itself was paid in foreign currency.

PART IV
CAPITAL GAINS TAX

Clause 17

This clause lowers the age threshold for the exemption from capital gains tax of amounts earned by way of sales of principal private residences by elderly persons from 59 to 55 years.

Clause 18

This clause corrects an error that was made in the Finance (No. 2) Act, 2005, with respect to the rate of capital gains tax payable on listed securities and other kinds of securities.

Clauses 19 and 20

The effect of these proposed amendments to the Capital Gains Tax Act is to exclude from the scope of that Act donations of immovable property by any company or group of companies to an approved employee housing trust fund (see the definition of that term to be inserted in section 2(1) of that Act).

PART V
CUSTOMS AND EXCISE

Clause 21

This clause will add an additional section to Part XXIIA ("Special Excise Duty on Sales of Second-Hand Motor Vehicles") of the Customs and Excise Act, the effect of which is to make it explicit who is liable for the special excise duty on sales of second-hand motor vehicles, and impose certain obligations on motor dealers selling such vehicles to keep records and make returns to the Zimbabwe Revenue Authority.

Clause 22

The proposed amendment to section 235 ("Making of regulations") of the Customs and Excise Act will empower the Zimbabwe Revenue Authority to designate parking places at ports of entry and regulate the conditions for the parking of vehicles therein.

PART VI
AMENDMENT OF OTHER ACTS

Clause 23

Prior to the enactment of the Finance (No. 2) Act, 2005, the common law was that the *in duplum* rule does not apply to fiscal debts. The Finance (No. 2) Act, 2005, amended the General Law Amendment Act to enshrine that rule specifically, and suspended the operation of the *in duplum* rule while a notice was in force giving a taxpayer concerned 21 days to make good his or her indebtedness. This provision has proved difficult to administer in practice; accordingly, it is substituted by another provision which simply restates the common law position.

Clause 24

In 2005 the African Export-Import Bank (Membership of Zimbabwe and Branch Office Agreement) Act was passed to give effect to the Branch Office Agreement between the Government of Zimbabwe and the African Export-Import Bank. The Branch Office Agreement specifically exempts the African Export-Import Bank from indirect taxes such as VAT on purchase of items. However, there is a provision in one of the introductory sections of the Act which appears to override this concession, contrary to the Branch Office Agreement. This amendment proposes to remove that provision. The amendment also assigns a Chapter number to this Act.

FINANCE BILL, 2006

ARRANGEMENT OF SECTIONS

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

PART V

CUSTOMS AND EXCISE

PART VI

AMENDMENT OF OTHER ACTS

FINANCE BILL, 2006

PRESENTED BY THE MINISTER OF FINANCE

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 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 1.4.99") 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 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 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, 2004, 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)	$56 000 000 to $128 000 000	20
14(2)(a)(iii)	$128 000 000 to $224 000 000	25
14(2)(a)(iv)	$224 000 000 to $320 000 000	30
14(2)(a)(v)	$320 000 000 and more	35".

"*Section*	*Level of taxable income 1/1/06 – 31/8/06*	*Specified percentage %*
14(2)(a)(i))	Up to $80 000 000	0
14(2)(a)(ii)	$80 000 000 to $120 000 000	20
14(2)(a)(iii)	$120 000 000 to $168 000 000	25
14(2)(a)(iv)	$168 000 000 to $216 000 000	30
14(2)(a)(v)	$216 000 000 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 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-

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:

$$\frac{\mathbf{D\text{-}E}}{\mathbf{E}} \ \mathbf{x} \ \mathbf{B}$$

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 the 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 the 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 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 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 tad 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

Amendments to Finance Act [Chapter 23:04]

17 Amendment of 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 of 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.".

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.