

FINANCE (NO.2) BILL, 2006 MEMORANDUM

Printed in The Herald (Zimbabwe)

December 1, 2006

The Bill will amend the Finance Act [Chapter 23:04], the Income Tax Act [Chapter 23:06], the Stamp Duties Act [Chapter 23:09], the Value Added Tax Act [Chapter 23:12], the Estate Duty Act [Chapter 23:03], the Capital Gains Tax Act [Chapter 23:01], the Customs and Exercise Act [Chapter 23:02] and the Finance (No.2) Act, 2004. In more detail, the individual clauses of the Bill provide as follows:

PART 1 PRELIMINARY

Clause 1

This clause sets out the Bill's short title.

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 \$20 000 a year, and this clause will increase that amount to \$100 000. The new bands will apply for the period from the 1st January, 2007.

Clause 3

This clause will increase the rate of automated financial transaction tax (the tax payable on cash withdrawals effected through an ATM) from \$10 to \$50 per withdrawal.

Clause 4

This clause will increase the tax based on the presumed income of certain businesses ("presumptive tax"). The businesses in question are operators of taxicabs, omnibuses, goods vehicles and driving schools.

Clause 5

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. Clause 5 seeks to raise the level of that tax from \$5 per litre of imported petroleum product to \$15, payable with effect from the 1st January 2005.

Clause 6

The NOCZIM debt redemption levy was introduced by the Finance Act, 2003, with effect from 1st December, 2003. This clause seeks to increase this levy from \$25 per litre to \$55 per litre of petroleum product purchased by an oil company from NOCZIM or imported by an oil company.

Clause 7

This clause will partly replace the Schedule to Chapter 1 of the Finance Act, which sets out the rates of income tax payable by various classes of taxpayers. Under the new Schedule the credits allowable to elderly, blind and mentally or physically disabled taxpayers will be increased. As indicated in connection with clause 2 above, the income "bands" will be altered.

Clauses 8, 9, 12, 13 and 22

These clauses will effect the required amendments to the Income Tax Act to empower the Commissioner to introduce the self-assessment system over a period of time. The system places greater responsibility on taxpayers and frees revenue officers to focus more on auditing compliance with the Act.

The new section 37B inserted by clause 13 in the Income Tax Act empowers the Commissioner-General to issue rulings to taxpayers who request them, subject to the conditions set out in the new Thirty-Third Schedule.

Clause 10

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. In paragraph (a), the deemed motor vehicle benefit, which varies according to the engine capacity of the vehicle, has been increased, from \$9 000 to \$100 000 for vehicles with the lowest engine capacity (i.e. below 1500cc) and from \$24 000 to \$260 000 for vehicles with the highest engine capacity (i.e. above 3000cc).

Clause 11

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 organization from \$100 000 000 to \$500 000 000.

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 \$100 000 000 to \$500 000 000.

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 organization from \$100 000 000 to \$500 000 000.

Paragraph (d) of this clause will increase from \$5 000 000 to \$10 000 000 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.

Clause 15

Section 72 of the Income Tax Act deals with the payment of provisional tax, which is paid in quarterly installments over the calendar year in the year of assessment in which the income accrued. The amendment sought by this clause will adjust the proportions of provisional tax payable in each quarter from 10%, 40%, 40%, and 10% to 10%, 25%, 30% and 35%.

Clause 16

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 to 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 increase from \$5 000 to \$500 000 the threshold of a contract on or above which the Government or the statutory body concerned is obliged to withhold the 10%.

Clauses 17, 38 and 39

The amendment sought by these clauses will permit the electronic submission of tax returns and related documentation subject to certain safeguards against fraud and other abuses, thereby greatly expediting and facilitating tax administration.

Clause 18

Section 90 of the Income Tax Act empowers the Minister to make regulations for the purposes of the Income Tax Act. The amendment sought by this clause will enable the Minister to prescribe fees for certain services provided to members of the public by the Commissioner.

Clause 19

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

Paragraph 4(o) of the Schedule exempts bonuses and performance-related awards paid to employees, up to a maximum amount of \$20 000. Paragraph (a)(i) of this clause will increase that amount to \$100 000.

Paragraph 4(p) of the Schedule exempts up to \$4 500 000 of terminal benefits given to employees on their retrenchment. Paragraph (a)(ii) of this clause will increase that amount to \$16 000 000.

Paragraphs (a)(iii) and (b) of this clause increases from \$12 000 to \$112 000 the tax exempt amount of income accruing to persons aged over 59 years by way of rental income or interest from deposits with financial institutions or from discounted securities.

Paragraph (b) reinstates the similar exemption of retirement pensions accruing to persons aged over 59 years that was removed by the Finance Act, 2000. Unlike the previous exemption, however, the whole of a pension qualifies for the exemption, without limit.

Clause 20

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 increases the maximum specified amounts allowed in respect of the construction of staff housing and for the purchase of passenger motor vehicles.

Clause 21

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 increase the specified maximum amounts of deduction to account for inflation.

Clause 23

The definition of "remuneration" in paragraph 1(1) of the Thirteenth Schedule ("Employees' Tax") of the income Tax Act excludes from its scope for employee tax purposes fees received by non-working or non-executive directors of companies. At present, tax on such fees is payable only upon assessment. The effect of this amendment is to tax such fees at source, in the same way as ordinary employees' remuneration.

Clauses 24, 25, 26, 27 and 28

These clauses amend the 15th, 16th, 17th, 18th and 19th Schedules to the Income Tax Act which respectively provide for the manner of paying the Resident Shareholders' Tax, the Non-Residents' Tax on Interest, the Non-Residents' Tax on Fees, the Non-Residents' Tax on Remittances and the Non-Residents' Tax on Royalties. The effect of these amendments is to require payment of these taxes to be made to the Commissioner within 15 days of the date when the dividends, interest, fees, remittances or royalties, as the case may be, are paid, instead of within 30 days at present.

Clause 30

The Schedule to Chapter II of the Finance Act prescribes the rates of stamp duty payable on cheques from \$10 to \$100.

Clause 31

The effect of this clause, which amends the Chapter of the Finances Act concerned with the rate of estate duty, is to exclude from the dutiable amount the first \$100 000 000 of the value of the estate.

Clause 33

This clause will amend section 21 of the Capital Gains Tax Act by extending the facility allowed to a taxpayer of "rolling over" the proceeds of the sale of a principal private residence to a taxpayer who sells a residential stand in order to purchase another stand for his or her own residential purposes.

Clause 34

This clause will amend section 23 of the Capital Gains Tax Act, which applies certain provisions of the Income Tax to the Capital Gains Tax Act, by applying the new Part VIIIA of the Income Tax Act discussed under clause 16 above.

Clause 35

This clause will amend the schedule to Chapter IV of the Finances Act, which sets out the general rate of value added tax. The effect of the amendment is to increase the general rate of value added tax from 15% to 17,5%. The new rate will come into operation on the 1st January 2007.

Clause 36

Section 28 ("Returns and payment of tax") of the Value Added Tax Act provides that VAT collected should be remitted to ZIMRA by the last day of the first month following the end of the tax period relating to the registered operator. In order to improve the accounting for VAT collected, this clause seeks to change the payment date for VAT remittances from the last to the twentieth day of the first month after the tax period relating to the registered operator, with effect from the 1st January 2007.

Clause 37

Under section 32 ("Objections to certain decisions are assessments") of the Value Added Tax Act it is provided that if the Commissioner does not respond to an objection within 6 months, the objection is deemed to have been disallowed, whereupon the objector may appeal against the Commissioner's deemed disallowance. This clause will reduce that period to three months.

Clauses 41, 42, 43 and 44

These clauses amend various Acts. The Global Trade Act and Mines and Minerals Act are sought to be amended to impose more rigorous penalties for such offences as illegal gold dealing and illegal prospecting. The amendments to the Pension and Provident Funds Act are backdated to the 10th November, 2006, in order to validate certain civil penalties imposed in terms of the Pensions and Provident Funds (Amendment) Regulations, 2006. Clause 39 saves in force the amendments to the Bank Use Promotion and Suppression of Money Laundering Act that were first made by the Presidential Powers (Temporary Measures) (Currency Revaluation) Regulations, 2006, which will expire at the end of January.

Clauses 46 and 47

Clause 40 saves in force section 11 of the Presidential Powers (Temporary Measures) (Currency Revaluation) Regulations, 2006, which, as mentioned above, will expire at the end of January. Clause 41 provides for the saving of anything done in the valid exercise of any power under those regulations.