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Act 8 of 2011.

Gazetted and into force Friday 16th September 2011

FINANCE ACT, 2011

(Act 8/2011)

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1. Short title.

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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 Parliament of Zimbabwe.

PART I
PRELIMINARY

1 Short title

This Act may be cited as the Finance Act, 2011.

PART II
INCOME TAX

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

2 New section substituted for section 2B of Cap. 23:04

The Finance Act [Chapter 23:04] is amended by the repeal of section 2B and the substitution of—

“2A Meaning of small or medium enterprise or business

(1) In this section, a “Scheduled Act” means this Act or any of the other Acts specified in the First Schedule (“the Scheduled Acts”) to the Revenue Authority Act [Chapter 12:11] (No. 17 of 1999).

(2) For the purposes of any Scheduled Act, a reference to a “small enterprise”, “small business”, “medium-sized enterprise”, “medium-sized business”, “small or medium enterprise”, “small or medium sized enterprise”, “small or medium enterprise¹”, “small or medium sized business” shall bear the meaning assigned to any identical or related term in

¹ Note by Veritas. Sic. This is a duplication; it should be “small or medium business”.

the Small and Medium Enterprises Act [*Chapter 24:12*] or any other law that may be substituted for the same.”.

3 New section substituted for section 22H of Cap. 23:04

With effect from the 1st September, 2011, section 22H of the Finance Act [*Chapter 23:04*] is repealed and the following is substituted—

“22H NOCZIM debt redemption and strategic reserve levy

The NOCZIM debt redemption and strategic reserve levy chargeable in terms of section 36H of the Taxes Act shall—

- (a) in relation to the NOCZIM debt redemption levy, be calculated at the rate of one point three United States cents per litre of diesel and six point seven United States cents per litre of petrol;
- (b) in relation to the strategic reserve levy, be calculated at the rate of one point five United States cents per litre of diesel and one point five United States cents per litre of petrol;

purchased or imported by—

- (c) an oil company from NOCZIM or its subsidiaries or successors; or
- (d) any person licensed by the Minister responsible for energy to import the petroleum product in bulk.”.

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

With effect from the 1st September, 2011, section 22L of the Finance Act [*Chapter 23:04*] is repealed and the following is substituted—

“22 L Petroleum importers levy

The petroleum importers levy chargeable in terms of section 36K of the Taxes Act shall be calculated at the rate of 0,04 United States dollars per litre of petroleum product transported by a petroleum importer by road.”.

Amendments to Income Tax Act [Chapter 23:06]

5 Repeal of section 3 of Cap. 23:06

Section 3 of the Income Tax Act [*Chapter 23:06*] is repealed.

6 Amendment of section 8 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2012, 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” by insertion in the definition of “advantage or benefit” in paragraph (f)I of the following paragraph—

“and

- (c) includes any other advantage or benefit whatsoever in lieu of or in the nature of “remuneration” as defined in paragraph 1(1) of the Thirteenth Schedule;”.

7 New section substituted for section 36H of Cap. 23:06

With effect from the 1st September, 2011, section 36H of the Income Tax Act [*Chapter 23:06*] is repealed and the following is substituted—

“36H NOCZIM debt redemption and strategic reserve levy

(1) There shall be charged, levied and collected throughout Zimbabwe for the benefit of –

- (a) the NOCZIM Debt Redemption Sinking Fund a NOCZIM debt redemption levy in accordance with the Thirty-First Schedule at the rate fixed from time to time in the Charging Act; and
- (b) the Strategic Reserve Fund a strategic reserve levy in accordance with the Thirty-First Schedule at the rate fixed from time to time in the Charging Act.

(2) Subsection (1)(a) above, subsection 22H(a) of the Charging Act and all provisions of the Thirty-First Schedule relating to the NOCZIM debt redemption levy, shall lapse on the date when the debts for which NOCZIM Debt Redemption Sinking Fund was established have been repaid in full.”.

8 New section substituted for section 36K of Cap. 23:06

With effect from the 1st September, 2011, section 36K of the Income Tax Act [*Chapter 23:06*] is repealed and the following is substituted—

“36K Petroleum importers levy

There shall be charged, levied and collected from every petroleum importer who transports petroleum products by road a petroleum importers levy in accordance with the Thirty-First Schedule at the rate fixed from time to time in the Charging Act.”.

9 Amendment of section 37B in Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2012, section 37B (“Duty to keep records”) of the Income Tax Act [*Chapter 23:06*] is amended by the repeal of subsection (2) and the substitution of—

“(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to—

- (a) a fine not exceeding level seven; or
- (b) a fine equivalent to ten *per centum* of the person’s taxable income;

whichever is the greater amount, or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.”.

10 Amendment of section 46 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2012, section 46 (“Additional tax in event of default or omission”) of the Income Tax Act [*Chapter 23:06*] is amended—

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

- “(f) if he or she fails to disclose in any return made by him or her any particulars as prescribed in terms of section 37(5) or (9) by the Commissioner, and the failure to disclose such particulars results in the calculation of the tax at an amount which is less than the tax properly chargeable, an amount of tax equal to the difference between the tax as calculated in accordance with the return made by him or her and the tax properly chargeable if the disclosure had been made;”;

- (b) in subsection (1a) by the deletion of “subsection (a), (b), (c), (d) or (e) of subsection (1)” wherever it occurs and the substitution of “subsection (1) (a), (b), (c), (d), (e) or (f)”.

11 Amendment of Thirteenth Schedule to Cap. 23:06

The Thirteenth Schedule (“Employees’ Tax”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 1 (“Interpretation”) (1) by the insertion of the following definitions—
 - ““principal”, in relation to an employer who or which is a subordinate person, means any company, partnership or organisation referred to in the definition of “subordinate person”;
 - “subordinate person”, in relation to any company, partnership, organisation or other person, means a branch or division of a company (not being a branch or division that is a subsidiary of the company as defined in section 143 of the Companies Act [*Chapter 24:03*]), partnership or organization which has its head office or principal place of business within Zimbabwe;”;
- (b) in paragraph 2 (“Registration of employers”)(1) by the deletion of “Every employer” and the substitution of “Subject to paragraph 2A, every employer”;
- (c) by the insertion of the following paragraph after paragraph 2—
 - “Principals to register as employers in lieu of subordinate persons*
 - 2A.(1) With effect from the date of commencement of the Finance Act, 2011,² where an employer is a subordinate person, the principal of that employer must, for the purposes of this Schedule, register as the employer instead of the first-mentioned employer.
 - (2) Every principal shall, on or before the 1st January, 2012, apply to the Commissioner in such form as may be prescribed for registration as the employer in place of every entity—
 - (a) that is its subordinate person; and
 - (b) which, on the date of commencement of the Finance Act, 2011, is registered as an employer.”.

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

With effect from the 1st September, 2011, the Thirty-First Schedule (“NOCZIM Debt Redemption”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) by the deletion of the title thereto and the substitution of “NOCZIM DEBT REDEMPTION AND STRATEGIC RESERVE LEVY”;
- (b) in paragraph 2 (“Liability for NOCZIM debt redemption levy”) —
 - (i) by the deletion of the title thereto and the substitution of “Liability for NOCZIM debt redemption and strategic reserve levy”;
 - (ii) in subparagraph (1)(a) and (b), by the deletion of “NOCZIM debt redemption levy” and the substitution of “NOCZIM debt redemption and strategic reserve levy”.

² Note by Veritas. 16th September 2011 – the date the Act was gazetted.

13 Amendment of Thirty-Fourth Schedule to Cap. 23:06

With effect from the 1st September, 2011, the Thirty-Fourth Schedule (“Petroleum Importers Levy”) to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 2 by the repeal of subparagraph (1) and the substitution of —

“(1) Every petroleum importer who transports petroleum products by road shall, at any designated port of entry into Zimbabwe, pay to the Zimbabwe Revenue Authority a petroleum importers levy at the rate fixed by the Charging Act.”.

PART III

VALUE ADDED TAX

14 Amendment of section 62 of Cap. 23:12

With effect from the 1st January, 2012, section 62 (“Offences”) of the Value Added Tax Act [*Chapter 23:12*] is amended—

- (a) in subsection (1) by the repeal of paragraph (i);
- (b) by the insertion after subsection (2) of the following subsection—

“(2a) Any person who fails to comply with any of the requirements of section 57 shall be guilty of an offence and liable to—

- (a) a fine not exceeding level seven; or
- (b) a fine equivalent to ten *per centum* of the person’s taxable supplies for the tax period appropriate to the category to which that person belongs in terms of section 27 as a registered operator;

whichever is the greater amount, or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.”.

PART IV

CUSTOMS AND EXCISE

15 Amendment of section 223 of Cap. 23:02

With effect from the 1st January, 2012, section 223 (“Persons carrying on business to keep proper books and records”) of the Customs and Excise Act [*Chapter 23:02*] is amended by the repeal of subsection (2) and the substitution of -

“(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to—

- (a) a fine not exceeding level seven; or
- (b) a fine equivalent to ten *per centum* of the duty in respect of the payment of which an officer requested the production of the records, documents or books in question;

whichever is the greater amount, or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.”.

PART V
REVENUE AUTHORITY

16 Amendment of section 21A of Cap. 23:11

Section 21A (“Control of officers and delegation of functions under this Act and Scheduled Acts”) of the Revenue Authority Act [*Chapter 23:11*] is amended—

(a) by the repeal of subsection (2) and the substitution of—

“(2) The Commissioner-General may—

- (a) delegate to any officer referred to in subsection (1); or
- (b) with the approval of the Board given beforehand or (if the urgency of the circumstances giving rise to the delegation so require) as soon after the delegation as practicable, delegate to any person in the employment of the State or another statutory body;

any function which by this Act or any Scheduled Act is conferred or imposed upon him or her, other than such power of delegation.”;

- (b) in subsection (3) by the deletion of “An officer” and the substitution of “An officer or other person”;
- (c) in subsection (5) by the deletion of “an officer in the exercise of a function delegated to the officer” and the substitution of “an officer or other person in the exercise of a function delegated to the officer or person”.