
Act No. 9 of 2011.
Gazetted and into force: 31st December 2011.

ARRANGEMENT OF SECTIONS

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PRELIMINARY

Section

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INCOME TAX

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

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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 (No. 2) Act, 2011.

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 1.1.10") (2) of the Finance Act [*Chapter 23:04*] is amended—

(a) by the deletion of "the 1st January 2010, or any subsequent year of assessment" and the substitution of "the 1st January 2012, or any subsequent year of assessment";

(b) by the repeal of paragraph (a) and the substitution of—

"(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 three thousand United States dollars;

(ii) so much as exceeds three thousand United States dollars but does not exceed twelve thousand United States dollars;

(iii) so much as exceeds twelve thousand United States dollars but does not exceed twenty-four thousand United States dollars;

(iv) so much as exceeds twenty-four thousand United States dollars but does not exceed sixty thousand United States dollars;

(v) so much as exceeds sixty thousand United States dollars but does not exceed ninety thousand United States dollars;

(vi) so much as exceeds ninety thousand United States dollars but does not exceed one hundred and twenty thousand United States dollars;

(vii) so much as exceeds one hundred and twenty thousand United States dollars;".

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

With effect from the 1st January, 2012, in year of assessment beginning on the 1st January, 2012, section 22C ("Presumptive tax") of the Finance Act [*Chapter 23:04*] is amended by the insertion of the following paragraphs after paragraph (m)—

"(n) operators of commercial waterborne vessels—

(i) of a description referred to in paragraph 2(a) of the definition of "commercial waterborne vessel" in the Twenty-Sixth Schedule, having a carrying capacity (inclusive of cabin crew)—

A. of not more than five passengers, two hundred and fifty United States dollars per quarter per vessel;

B. of six passengers but less than sixteen passengers, five hundred United States dollars per quarter per vessel;

C. of sixteen passengers but less than twenty-six passengers, one thousand United States dollars per quarter per vessel;

D. of twenty-six passengers but less than fifty passengers, one thousand five hundred United States dollars per quarter per vessel;

E. of fifty or more passengers, two thousand United States dollars per quarter;

(o) operators of commercial waterborne vessels of a description referred to in paragraph 2(b) of the definition of "commercial waterborne vessel" in the Twenty-Sixth Schedule (that is to say, operators of fishing rigs), three hundred and fifty United States dollars per quarter per vessel.".

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

With effect from the year of assessment beginning on the 1st January, 2012, the Schedule ("Credits and Rates of Income Tax") to Chapter I of the Finance Act [*Chapter 23:04*] is amended in

Part II by the deletion of the items relating to taxable income from employment and the substitution of—

“14(2)(a)(i)	Up to US $3000	0
14(2)(a)(ii)	US $3001 to US $12 000	20
14(2)(a)(iii)	US $12 001 to US $24 000	25
14(2)(a)(iv)	US $24 001 to US $60 000	30
14(2)(a)(v)	US $60 001 to US $90 000..	35
14(2)(a)(vi)	US $90 001 to US $120 000..	40
14(2)(a)(vii)	US $120 001 and more	45.”.

Amendments to Income Tax Act [Chapter 23:06]

5 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) with effect from the 1st November, 2011, in paragraph 4(o) by the deletion of “five hundred United States dollars” and the substitution of “seven hundred United States dollars”;

(b) in paragraph 10, by the insertion of the following paragraph—

“(q) with effect from the 8th November, 2011, any Agricultural Marketing Authority bill issued by the Agricultural Marketing Authority established in terms of the Agricultural Marketing Authority Act [*Chapter 18:24*] (Act No. 26 of 2004).”.

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

With effect from the 1st January, 2012, the Twenty-Sixth Schedule (“Presumptive Tax”) to the Income Tax Act [*Chapter 23:06*] is amended—

(a) in paragraph 1 (“Interpretation”)—

(i) in the definition of “operator” by the insertion of the following paragraph—

“(f) the operation of a commercial waterborne vessel, means the person who owns or is in control of the commercial waterborne vessel, whether or not such vessel is registered in terms of the Inland Waters Shipping Act [*Chapter 13:06*], but does not include any such person in possession of—

(i) a tax clearance certificate to the effect that he or she has furnished a return under section 37 for the last year of assessment for which such a return is due; or

(ii) proof that he or she is as a registered operator in terms of the Value Added Tax Act [*Chapter 23:13*];”;

(ii) by the insertion of the following definitions—

““commercial waterborne vessel” means—

(a) any ship, cruiser, boat, houseboat, speedboat, canoe or any other waterborne vessel of whatever description that is employed for the carriage of passengers for profit on inland waters; or

(b) a fishing rig;

"inland waters" has the meaning given to it in section 2(1) of the Inland Waters Shipping Act [*Chapter 13:06*];"

(b) by the insertion after Part IVE of the following Parts—

"PART IVF

COMMERCIAL WATERBORNE VESSEL OPERATORS' PRESUMPTIVE TAX

Payment of presumptive tax by operators of commercial waterborne vessels

13G.(1) Subject to this paragraph, no later than ten days after the end of each quarter, every operator of a commercial waterborne vessel shall pay the amount of presumptive tax that is fixed from time to time in the Charging Act.

Provided that the Commissioner may, for good cause shown, allow the tax to be paid over at a later date.

(2) The amount of presumptive tax payable in terms of subparagraph (1) shall be payable at any branch, division or department of the Zimbabwe Revenue Authority responsible for assessing, collecting and enforcing the payment of taxes under this Act or through any agent of the Zimbabwe Revenue Authority notified by the Commissioner.

(3) Where an operator of commercial waterborne vessel has paid the amount of presumptive tax due in terms of subparagraph (1), the Commissioner shall furnish the operator with the appropriate presumptive tax clearance certificate.

PART III

VALUE ADDED TAX

7 Amendment of section 28 of Cap. 23:12

With effect from the 1st January, 2012, section 28 ("Returns and payments of tax")(1) of the Value Added Tax Act [*Chapter 23:12*] is amended by the deletion of "the twentieth day" and the substitution of "the twenty-fifth day".

8 Amendment of section 78 of Cap. 23:12

With effect from the 1st January, 2012, the Value Added Tax Act [*Chapter 23:12*] is amended in section 78 ("Regulations") (4) in the definition of "goods of a capital nature", by the insertion of the following subsections after subsection (4)—

"(5) Regulations made under this section may prescribe for any contraventions thereof civil penalties of a prescribed amount leviable by the Commissioner on behalf of the Zimbabwe Revenue Authority for each day during which a contravention continues, not exceeding a prescribed number of days:

Provided that the Commissioner shall have power to waive the payment or refund the whole or part of any penalty prescribed under this subsection if he or she is satisfied that the contravention was not wilful, or not due to the want of reasonable care.

(6) A civil penalty prescribed under subsection (5) shall constitute a debt due to the Commissioner by the person against whom it is levied, and shall, at any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Commissioner or the Zimbabwe Revenue Authority.

(7) The amount of any penalty prescribed under subsection (5) that is received or recovered by the Commissioner will form part of the funds of the Zimbabwe Revenue Authority.”.

PART IV

CUSTOMS AND EXCISE

9 Substitution of section 26 of Cap. 23:02

With effect from the 1st January, 2012, section 26 of the Customs and Excise Act [*Chapter 23:02*] is repealed and the following is substituted—

“26 Person in charge of vehicle to report goods in his or her charge

(1) In this section—

“customs port” means a port of entry into or exit from Zimbabwe, and includes an aerodrome declared to be a port in terms of section 14

“omnibus” means a motor vehicle having—

(a) a net mass exceeding two thousand three hundred (2300) kilograms; and

(b) seating accommodation for eight or more passengers;

“goods vehicle” means a motor vehicle, including an articulated vehicle, constructed or adapted for the conveyance of goods, which has—

(a) a carrying capacity of more than ten tonnes; or

(b) in the case of a motor vehicle whose carrying capacity is ten tonnes or less but which is drawing one or more trailers, a combined carrying capacity of more than five tonnes.”.

(2) The person in charge of any vehicle, other than a railway train, shall—

(a) in the case where the vehicle is an omnibus or goods vehicle for the conveyance of passengers or goods for profit, no later than three hours before arrival of the vehicle at the customs port (or within such shorter time as the Commissioner may allow), transmit to the Zimbabwe Revenue Authority at the destined customs port manifests of the passengers, crew and goods being conveyed by the vehicle, signed by the person authorised to sign such manifests at the place of departure for or from Zimbabwe, as the case may be; and

(b) on arriving in Zimbabwe, whether conveying goods or not, proceed immediately with the vehicle to the custom house or customs post at the port of entry and, before unloading or in any manner disposing of such vehicle or goods, make full report in such manner as the officer may require or as may be prescribed concerning the vehicle, the goods in his possession or charge and the journey or destination of such goods.

(3) If, for the purpose of subsection (2)(b), a report in writing is prescribed or required by the officer, such person shall make and subscribe before the officer a declaration, at the foot of the report, as to the truth of the same, and shall answer to the best of his or her knowledge all such questions and produce all waybills or other documents relating to the goods, freight and journey as may be demanded of him or her by such officer.

(4) No person shall remove a vehicle mentioned in subsection (2) from the custom house or customs post mentioned in that subsection until permission for removal has been granted by an officer.

(5) Any person who fails to comply with any requirement of subsection (2), (3) or (4), with which it is his or her duty to comply, 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.

10 Amendment of section 28 of Cap. 23:02

Section 28 ("report of aircraft") of the Customs and Excise Act [*Chapter 23:02*] is amended—

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

"(2) The pilot of every aircraft that arrives or is to arrive from a place outside Zimbabwe shall—

(a) at the aerodrome from which the aircraft is to depart for Zimbabwe, transmit to the Zimbabwe Revenue Authority at the destined port of entry manifests of the passengers, crew and goods on board the aircraft, signed by the person authorised to sign such manifests at that aerodrome; and

(b) immediately upon the landing of the aircraft at a customs aerodrome, but in any event within three hours of such landing or before any goods are unloaded from the aircraft (whichever is the earlier, unless the Commissioner allows a longer time)—

(i) make a report to the officer on duty in such manner and in such form as may be prescribed; and

(*ii*) answer to the best of his or her knowledge all questions concerning the aircraft and cargo and the crew and passengers and journey as are put to him or her by the officer on duty.

(b) in subsection (3) by the repeal of paragraphs (c) and (d) and the substitution of—

"(c) provide the manifests referred to in subsection (2)(a), if they were not transmitted in advance as required by that provision.";

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

"(7) Any person who fails to comply with any requirement of subsection (1), (2), (3), (4), (5) or (6) with which it is his or her duty to comply, 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.".

11 Amendment of section 39 of Cap. 23:02

Section 39 ("Entry of goods to be made") of the Customs and Excise Act [*Chapter 23:02*] is amended by the repeal of subsection (4) and the substitution of—

"(4) The offer for sale by public auction shall be subject to a reserve of an amount—

(a) sufficient to cover the duty and the expenses incurred in connection with the sale; and

(b) in the case of goods of a substantially similar description to goods that are manufactured and sold in Zimbabwe, equivalent to the best price the goods would have fetched in the local market in the financial year preceding that in which the auction is held:

Provided that—

(i) paragraph (b) shall only apply to goods of the description therein referred to which are specified by the Minister from time to time by notice in the *Gazette*;

(ii) the Commissioner may by direction, in relation to goods not referred to in proviso (i), accept such bid below the reserve as he or she deems adequate;

(iii) if the goods are not sold at such sale they may, by direction of the Commissioner, be sold out of hand or destroyed or appropriated to the State without compensation.".

12 Amendment of section 98C of Cap. 23:02

Section 98C ("Establishment of computer systems for customs processing purposes") of the Customs and Excise Act [*Chapter 23:02*] is amended

(a) by the insertion of the following paragraph after paragraph (d)—

"(e) the operation of an system (whether restricted to registered users or not) whereunder any importer, exporter, manufacturer, freight forwarding agent, broker, carrier, airport operator, proprietor or occupier of a bonded warehouse or any other person involved in the trans-border movement of goods for profit in any capacity whatsoever may, subject to having a proven record of compliance with the Act and to meeting such other criteria as may be prescribed, be certified by the Commissioner as an "approved economic operator" for the purpose of benefitting from the expeditious clearance of the goods in question in advance of their importation into or exportation from Zimbabwe by any mode of transport.";

(b) by the insertion of the following subsection, the existing section becoming subsection (1)—

"(2) Regulations made under section 235 may provide for the establishment and maintenance of any computer system referred to in this section, including a system of certification, with or without the payment of a fee, of any person wishing to have access to, or otherwise benefit from, such a system.".

PART V

MINES AND MINERALS

13 Amendment of Schedule to Chapter VII of Cap. 23:04

With effect from the 1st January, 2012, the Schedule to Chapter VII of the Finance Act [*Chapter 23:04*] is amended in paragraph 1 (which fixes the rates of royalties for the purposes of section 245 of the Mines and Minerals Act [*Chapter 21:05*]) by the deletion of the items relating to gold and platinum and the substitution of the following—

"Gold…………………………………............. 7

"Platinum…………………………………….... 10".

PART VI

AMENDMENT OF OTHER ACTS

14 Amendment of Act No. 8 of 2011

The Finance Act, 2011 (Act No. 8 of 2011) is amended in section 11 ("Amendment of Thirteenth Schedule to Cap. 23:06") by the repeal of paragraph (b) and the substitution of—

"(b) in paragraph 2 ("Registration of Employers")(1) by the deletion of "Every person" and the substitution of "Subject to paragraph 2A, every person";";

15 Amendment of Cap. 24:03

The Companies Act [*Chapter 24:03*] is amended—

(a) in section 28 ("Copies of memorandum and articles to be given to members")(1) by the deletion of "one dollars" and the substitution of "one United States dollar";

(b) in section 125 ("General provisions as to meetings and votes and power of court to order meeting")(8) by the deletion of "twenty dollars" and the substitution of "ten United States dollars";

(c) in section 132 ("Circulation of members' resolutions")(2)(b) by the deletion of "two hundred dollars" and the substitution of "two hundred United States dollars";

(d) in section 136 ("Registration and copies of special resolutions")(4) by the deletion of "one dollar" and the substitution of "one United States dollar";

(e) in section 157 ("Investigation of company's affairs on application of members")(2) by the deletion of "four hundred dollars" and the substitution of "four hundred United States dollars";

(f) in section 185 ("Particulars in accounts of loans to officers")(2)(b) by the deletion of "four thousand dollars" and the substitution of "four thousand United States dollars";

(g) in section 205 ("When company deemed unable to pay its debts")(a) by the deletion of "one hundred dollars" and the substitution of "one hundred United States dollars";

(h) in section 214 ("Transmission of winding-up order to certain officers") in the proviso to subsection (1) by the deletion of "four hundred dollars" and the substitution of "four hundred United States dollars";

(i) in section 224 ("Banking account")(5) by the deletion of "forty dollars" and the substitution of "forty United States dollars";

(j) in section 317 ("Offences consequent upon a winding up or judicial management") —

(i) in subsection (1)(b) by the deletion of "twenty dollars" and the substitution of "twenty United States dollars";

(ii) in subsection (2)(b) by the deletion of "twenty dollars" and the substitution of "twenty United States dollars";

(iii) in subsection (4)(b) by the deletion of "one hundred dollars" and the substitution of "one hundred United States dollars";

(k) in section 323 ("Winding up of unregistered association")(d)(i) by the deletion of "one hundred dollars" and the substitution of "one hundred United States dollars";

(l) in section 360 ("Regulations") by the repeal of subsection (1) and the substitution of—

"(1) The Minister may from time to time make—

(a) regulations providing for anything required by this Act to be prescribed by regulations; and

(b) regulations altering any amount referred to in section 28(1), 125(8), 132(2)(b), 136(4), 157(2), 185(2)(b), 205(a), 214(1)(proviso), 224(5), 317(1)(b), (2)(b) or (4)(b), or 323(d)(i);

(c) such other regulations as he may deem expedient or necessary for the carrying out of the purposes of this Act.".

16 Amendment of Cap. 24:29

The Deposit Protection Corporation Act [*Chapter 24:29*] (No. 7 of 2011) is amended—

(a) in section 38 ("Corporation as curator or liquidator and power to appoint agents") by the repeal of subsection (7) and the substitution of—

"(7) The Insolvency Act [*Chapter 6:04*] and the applicable provisions of the Companies Act [*Chapter 24:03*] shall, with respect to any matter not specifically provided for in this Act, and with such changes as may be necessary, apply to the liquidation of a failed contributory by the Corporation in its capacity as curator or liquidator of that contributory, except that, after payment of the amounts specified in section 63(1)(a) and (b), there shall be paid from the free residue of the estate of the failed contributory the following amounts in the following order—

(a) the contributions referred to in section 102 of the Insolvency Act [*Chapter 6:04*] that are deductible by that contributory from the salary or wages of his or her employees; and

(b) the salaries and wages of employees of the failed contributory in terms of section 103 of the Insolvency Act [*Chapter 6:04*]:

Provided that, notwithstanding anything contained in the Insolvency Act [*Chapter 6:04*] or any other law, the Corporation, in its capacity as curator or liquidator of a failed contributory, shall not allow claims for salaries and wages under this paragraph that are in excess of the average remuneration paid to directors and employees of banking institutions of an equivalent size who have comparable responsibilities to those of the directors and employees of that failed contributory.";

(b) by the repeal of section 45;

(c) by the repeal of section 62.