

FINANCE ACT, 2017
ARRANGEMENT OF SECTIONS

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1. Short title.

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ZIMBABWE

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 Parliament and the President of Zimbabwe.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Finance Act, 2017.

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

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

"(b1) in the case of a person other than a company, a trust or a pension fund, who is the holder of a temporary employment permit issued in terms of the Immigration Act [Chapter 4:02] in respect of his

or her employment with a licensed investor having a qualifying degree of export-orientation as defined in section 2 of the Taxes Act, at the specified percentage of each United States dollar of his or her taxable income from that employment;”;

- (b) by the repeal of paragraphs (e) and (e1) and the substitution of—
 - “(e) in respect of that part of the taxable income of a licensed investor having a qualifying degree of export-orientation as defined in section 2 of the Taxes Act which is attributable to the operations to which its investment licence relates, for the first five years after the commencement of the operation, at the percentage of each dollar of that income specified in Part II of the Schedule in respect of those years;”.

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

With effect from the year of assessment beginning on the 1st January, 2017, the Schedule (“Credits and Rates of Income Tax”) to Chapter I of the Finance Act [*Chapter 23:04*] is amended in Part II (“Rates of Income Tax on Taxable Income earned in Foreign Currency”)—

- (a) by the insertion of the following item after the item relating to section 14(2)(b)—

“14(2)(b1) Taxable income of individual (holding temporary employment permit from employment with a licensed investor having qualifying degree of export-orientation as defined in section 2 of the Taxes Act) 15”

- (b) by the repeal of the item relating to section 14(2) (e1) and the substitution of—

“14(2)(e) Taxable income of licensed investor having qualifying degree of export-orientation as defined in section 2 of the Taxes Act) before the end of the fifth year of its operations as such). 0

Taxable income of licensed investor after the fifth year of its operations as such 15”.

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

With effect from the year of assessment beginning on the 1st January, 2017, section 22C of the Finance Act [*Chapter 23:04*] is repealed and the following section is substituted—

“22C Presumptive tax

The presumptive tax chargeable in terms of section 36C of the Taxes Act shall be in the case of—

- (a) informal traders, calculated at the rate of ten *per centum* of each dollar of the rent upon which the tax is chargeable in terms of the Twenty-Sixth Schedule to the Taxes Act;
- (b) small-scale miners, calculated at the rate of zero *per centum* of each dollar of the purchase-price of precious metals or

precious stones upon which the tax is chargeable in terms of the Twenty-Sixth Schedule to the Taxes Act; or

- (c) operators of taxicabs for the carriage of passengers for hire or reward having seating accommodation for not more than seven passengers, twenty-five dollars per month for each such taxicab so operated; or
 - (d) operators of omnibuses for the carriage of passengers for hire or reward having seating accommodation for not less than eight or more than fourteen passengers, forty dollars per month for each such omnibus so operated; or
 - (e) operators of omnibuses for the carriage of passengers for hire or reward having seating accommodation for not less than fifteen or more than twenty-four passengers, forty-five dollars per month for each such omnibus so operated; or
 - (f) operators of omnibuses for the carriage of passengers for hire or reward having seating accommodation for not less than twenty-five or more than thirty-six passengers, seventy dollars per month for each such omnibus so operated; or
 - (g) operators of omnibuses for the carriage of passengers for hire or reward having seating accommodation for not less than thirty-seven passengers, one hundred dollars per month for each such omnibus so operated; or
 - (h) operators of goods vehicles having a carrying capacity—
 - (i) of more than ten tonnes but less than twenty tonnes two hundred dollars per month;
 - (ii) of ten tonnes or less but which is driving one or more trailers resulting in a combined carrying capacity of more than fifteen tonnes but less than twenty tonnes, five hundred dollars per month;
 - (iii) of twenty tonnes or more, five hundred dollars per month;
- or
- (i) operators of driving schools providing driving tuition—
 - (i) for class 4 vehicles only, one hundred dollars per month;
 - (ii) for class 1 and 2 vehicles (whether or not in addition to providing driving tuition for other classes of vehicles), one hundred and thirty dollars per month;
 - (j) operators of hairdressing salons, ten dollars per chair per month; or
 - (k) informal cross-border traders, ten *per centum* of the value for duty purposes of the commercial goods being imported by the traders concerned; or
 - (l) operators of restaurants or bottle-stores, seventy dollars per month; or
 - (m) cottage industry operators, seventy dollars per month; or
 - (n) operators of commercial waterborne vessels of a description referred to in paragraph 2(a) of the definition of “commercial waterborne vessel” in the Twenty-Sixth Schedule of the

Taxes Act, having a carrying capacity (inclusive of cabin crew) —

- (i) of not more than five passengers, sixty dollars per month per vessel;
- (ii) of six passengers but less than sixteen passengers, one hundred dollars per month per vessel;
- (iii) of sixteen passengers but less than twenty-six passengers, two hundred dollars per month per vessel;
- (iv) of more than twenty-six passengers but less than fifty passengers, three hundred and fifty dollars per month per vessel;
- (v) of fifty or more passengers, four hundred and fifty dollars per month per vessel;

or

- (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 of the Taxes Act (that is to say, operators of fishing rigs), eighty dollars per month.”.

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

With effect from the year of assessment beginning on the 1st January, 2017, section 22E (“Carbon Tax”) is amended by the repeal of subsection (2) and the substitution of the following—

“(2) In addition, a visitor to Zimbabwe who uses within Zimbabwe a motor vehicle registered outside Zimbabwe shall, upon entering Zimbabwe, and for each month or part of a month during which he or she visits Zimbabwe, pay carbon tax in respect of such vehicle to the Zimbabwe Revenue Authority in United States dollars (or the equivalent in Euros or in any other currency denominated under the Exchange Control (General) Order, 1996 (Statutory Instrument 110 of 1996) at the prevailing international cross rate of exchange), at the rate of ten United States dollars per vehicle.”.

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

With effect from the year of assessment beginning on the 1st January, 2017, section 22H (“NOCZIM debt redemption levy”) is amended in paragraph (a) by the deletion of “six point seven United States cents per litre of petrol” and the substitution of “five point seven United States cents per litre of petrol”.

Amendments to Income Tax Act [Chapter 23:06]

7 Amendment of section 2 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, section 2 (“Interpretation”)(1) of the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following definitions—

““special economic zone” means any part of Zimbabwe declared in terms of the Special Economic Zones Act [*Chapter 14:34*] (No. 7 of 2016);”.

“investment licence” means an investment licence issued in terms of the Special Economic Zones Act [*Chapter 14:34*] (No. 7 of 2016), to a

licensed investor with a qualifying degree of export-orientation, and “licensed investor” shall be construed accordingly;

“qualifying degree of export-orientation”, as characterising a licensed investor, means that the licensed investor exports all of its goods and services;”.

8 Amendment of section 16 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, section 16 (“Cases in which no deduction shall be made”) of the Income Tax Act [Chapter 23:06] is amended by the repeal of paragraph (r) and the substitution of—

“(r) in the case of expenditure incurred on fees, administration and management in favour of a company of which the taxpayer is an associated enterprise, or (where the company is a foreign company) the local branch—

- (i) incurred prior to the commencement of trade or the production of income or during any period of non-production, any amount in excess of zero comma seventy-five *per centum* of the amount obtained by applying the following formula—

$$A - (B + C)$$

where—

A represents the total expenditure qualifying for deduction in terms of section 15;

B represents the expenditure on fees or administration and management paid outside Zimbabwe;

C represents expenditure qualifying for deduction in terms of section 15(2)(f)(i);

- (ii) incurred after the commencement of trade or the production of income, any amount in excess of one *per centum* of the amount obtained by applying the above formula.”.

9 New sections inserted after section 19 of Cap. 23:06

With effect from the 1st January, 2017, the Income Tax Act [Chapter 23:06] is amended by the insertion of the following sections after section 19—

“19A Non-resident companies: basis of charge to and determination of company tax

(1) A company not resident in Zimbabwe (“the non-resident company”) is liable to tax if it carries on a business in Zimbabwe through a permanent establishment in Zimbabwe.

(2) If it does so, it is liable to tax subject to any exceptions provided for by this Act, on all taxable income, wherever arising, that is attributable to its permanent establishment in Zimbabwe.

(3) The taxable income attributable to a permanent establishment of a non-resident company for the purposes of tax may derive from—

- (a) trade, that is to say business income arising directly or indirectly through or from the establishment; and
- (b) investment, that is to say income from property or rights used by, or held by or for, the establishment.

(4) There shall be attributed to the permanent establishment of a non-resident company the taxable income it would have made if it were a distinct and separate enterprise, engaged in the same or similar activities under the same or similar conditions, dealing wholly independently from the non-resident company.

(5) In applying subsection (3) —

- (a) it shall be assumed that the permanent establishment has the same credit rating as the non-resident company of which it is the permanent establishment; and
- (b) it shall also be assumed that the permanent establishment has such equity and loan capital as it could reasonably be expected to have in the circumstances specified in that subsection; and
- (c) no deduction may be made in respect of costs in excess of those that would have been incurred on the foregoing assumptions; and
- (d) there shall be allowed as deductions any allowable expenses incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in Zimbabwe or elsewhere (in this paragraph “allowable expenses” means expenses of a kind in respect of which a deduction would be allowed for tax purposes if incurred by a company resident in Zimbabwe).

19B Meaning of “permanent establishment”

(1) For the purposes of this Act a company has a permanent establishment in Zimbabwe if, and only if —

- (a) it has a fixed place of business there through which the business of the company is wholly or partly carried on; or
- (b) an agent is acting on behalf of the company and in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the company, and these contracts are —
 - (i) in the name of the company; or
 - (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that company or that the company has the right to use; or
 - (iii) for the provision of services by that company.

(2) The above description is subject to the following provisions —

- (a) a “fixed place of business” includes (without prejudice to the generality of that expression) —
 - (i) a place of management;
 - (ii) a branch;
 - (iii) an office;
 - (iv) a factory;
 - (v) a workshop;