

## ARRANGEMENT OF SECTIONS

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# 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 Parliament of Zimbabwe.

## PART I

### PRELIMINARY

#### 1 Short title

This Act may be cited as the Finance (No. 2) Act, 2015

## PART II

### INCOME TAX

#### *Amendment to Chapter I of Finance Act [Chapter 23:04]*

#### 2 Amendment of section 22 of Cap. 23:04

With effect from the year of assessment beginning on the 1<sup>st</sup> January, 2016, section 22 (“Residents’ tax on interest”) of the Finance Act [Chapter 23:04] is amended by the repeal of paragraph (a) and the substitution of—

“(a) five *per centum* of each dollar of the interest from which such tax is to be withheld and paid in terms of the Twenty-First Schedule to the Taxes Act, in the case where the interest is earned on a fixed-term deposit with a tenure of at least ninety days:

Provided that no residents’ tax on interest is chargeable where the interest is earned on a fixed-term deposit with a tenure of more than twelve months; or”.

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

With effect from the 1<sup>st</sup> January, 2016, section 22A of the of the Finance Act [Chapter 23:04] is repealed and the following section is substituted—

##### “22A Tobacco levy

The tobacco levy chargeable in terms of section 36A of the Taxes Act shall be calculated in respect of—

(a) buyers of auction tobacco at the rate of 0,75 cents of each dollar;

(b) sellers of auction tobacco at the rate of 0,75 cents of each dollar; of the price from which the levy is to be withheld and paid in terms of the Twenty-Fourth Schedule to that Act.”.

*Amendments to Income Tax Act* [Chapter 23:06]

**4 Amendment of section 80 of Cap. 23:06**

Section 80 (“Withholding of amounts payable under contracts with State or statutory corporations”) (1) of the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following subsection after subsection (10) —

“(11) Where a statutory body, quasi-Governmental institution or registered taxpayer pays to the Commissioner an amount referred to in subsection (7)(a) for failure to pay any amount required to be withheld from a payee in terms of this section, it shall have the right, within twenty-four months from the date on which payment should have been made if the amount had been withheld in terms of subsection (2), to recover that amount from the payee:

Provided that it shall not be entitled to recover from the payee any amount referred to in subsection (7)(a) or (10).”.

**5 New section inserted after section 98 of Cap. 23:06**

With effect from the 1<sup>st</sup> January, 2016, section 98B of the Income Tax Act [*Chapter 23:06*] is repealed and substituted by—

“98B Transactions between associates

(1) For the purposes of this section, where a person engages directly or indirectly in any transaction, operation or scheme (hereinafter referred to as a controlled transaction), with an associated person, the amount of taxable income derived by a person that engages in that transaction shall be consistent with the arm’s length principle, where the conditions of the controlled transaction do not differ from an uncontrolled transaction, that is to say, from the conditions that would have applied between independent persons, in comparable transactions carried out under comparable circumstances.

(2) Any amount of income that would have accrued to either of the associated persons in a controlled transaction and been taxable in Zimbabwe, shall, in the absence of the arm’s length principle in that transaction which resoled in the avoidance, reduction or postponement of the liability to tax of either or both of them for any year of assessment, be included in the taxable income of either or both of them and be liable to be taxed accordingly

(3) The determination of whether the conditions of a controlled transaction between associated persons are consistent with the arm’s length principle, and of the quantum of any tax payable under subsection (2), are prescribed in the Thirty-Fifth Schedule.

(4) Subsection (1) also applies where a person (whether or not an associated person) who is resident in Zimbabwe engages in any transaction with a person resident outside Zimbabwe in a jurisdiction considered by the Commissioner-General to provide a taxable benefit in relation to that transaction,

(5) Every person who engages in a transaction to which subsection (1) or (4) applies shall keep the documentation prescribed in the Thirty-Fifth Schedule to enable the Commissioner-General to ascertain whether a transaction was conducted in accordance with the arm’s length principle.

(6) The Minister, after consultation with the Commissioner-General, may by notice in a statutory instrument amend or replace the Thirty-Fifth Schedule

(4) When the Minister wishes to amend or substitute the Thirty-Fifth Schedule the Minister shall lay the draft statutory instrument amending or substituting the Thirty-Fifth Schedule before the House of Assembly, and if the House makes no resolution against the publication of the statutory instrument within the next seven sitting days after it is so laid before the House, the Minister shall cause it to be published in the Gazette.”.

## **6 Amendment of Third Schedule to Cap. 23:06**

(1) The Third Schedule (“Exemptions from Income Tax”) to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 by the insertion of the following subparagraph after subparagraph (h)—

“(h1) an amount referred to in section 8(1)(r) that is received by a person who has not attained the age of fifty-five years before the commencement of the year of assessment, to the extent of ten United States thousand dollars or one third of such amount, whichever is the greater, up to a maximum of sixty thousand United States dollars;”.

## **7 New Schedule inserted in Cap. 23:06**

With effect from the 1<sup>st</sup> January, 2016, the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following Schedule—

### “THIRTY-FIFTH SCHEDULE (Section 98B)

#### TRANSFER PRICING

##### *Interpretation*

1. In this Schedule—

“controlled transaction” means any transaction between independent persons;

“comparable transaction” means a transactions that is comparable by reference to paragraph 4;

##### *Arm’s length principle*

2. The determination of whether the conditions of a controlled transaction are consistent with the arm’s length principle for the purposes of section 98B shall be made by the Commissioner-General in accordance with this Schedule.

##### *Comparability*

3.(1) An uncontrolled transaction is comparable to a controlled transaction within the meaning of section 98B (1) —

(a) when there are no differences between them that could materially affect the financial indicator being examined under the appropriate transfer pricing method; or

(b) when such differences exist, if a reasonably accurate comparability adjustment is made to the relevant financial indicator of the uncontrolled transaction in order to eliminate the effects of such differences on the comparison;

(2) To determine whether two or more transactions are comparable, the following factors shall be considered to the extent that they are economically relevant to the facts and circumstances of the transactions—

- (a) the characteristics of the property or services transferred; and
- (b) the functions undertaken by each person with respect to the transactions, taking into account assets used and risks assumed; and
- (c) the contractual terms of the transactions; and
- (d) the economic circumstances in which the transactions take place; and
- (e) the business strategies pursued by each of the associated persons in relation to the transactions

*Transfer pricing*

4.(1) The arm's length remuneration of a controlled transaction shall be determined by applying the most appropriate transfer pricing method to the circumstances of the case.

(2) The most appropriate transfer pricing method shall be selected from among the approved transfer pricing methods set out in paragraph 5 (5), taking into consideration the following criteria—

- (a) the respective strengths and weaknesses of the approved methods; and
- (b) the appropriateness of an approved method in view of the nature of the controlled transaction, determined in particular through an analysis of the functions undertaken by each person in the controlled transaction, taking into account assets used and risks assumed; and
- (c) the availability of reliable information needed to apply the selected transfer pricing method or other methods; and
- (d) the degree of comparability between the controlled and uncontrolled transactions, including the reliability of comparability adjustments, if any, that may be required to eliminate differences between them.

(3) It shall not be necessary to apply more than one method to determine whether the conditions of a given controlled transaction are consistent with the arm's length principle.

(4) Where a taxpayer has used an approved transfer pricing method and the selection of that method is consistent with this regulation, the examination by the Commissioner of whether the conditions of the taxpayer's controlled transactions are consistent with the arm's length principle shall be based on that transfer pricing method applied by the taxpayer.

(5) The following shall be the approved transfer pricing methods for purposes of paragraph 5 (1)—

- (a) the Comparable Uncontrolled Price Method, which is the comparable uncontrolled price method consisting of comparing the price charged for property or services transferred in a controlled transaction to the price charged for property or services transferred in a comparable uncontrolled transaction; and
- (b) the Resale Price Method, which is the resale price method consisting of comparing the resale margin that a purchaser of property in a controlled transaction earns from reselling that property in an uncontrolled transaction with the resale margin that is earned in comparable uncontrolled purchase and resale transactions; and

- (c) the Cost Plus Method, which is the cost plus method consisting of comparing the mark up on those costs directly and indirectly incurred in the supply of property or services in a controlled transaction with the mark up on those costs directly and indirectly incurred in the supply of property or services in a comparable uncontrolled transaction; and
- (d) the Transactional Net Margin Method, which is the transactional net margin method consisting of comparing the net profit margin relative to an appropriate base, such as costs, sales or assets, that a person achieves in a controlled transaction with the net profit margin relative to the same base achieved in comparable uncontrolled transactions; and
- (e) the Transactional Net Margin Method, which is the transactional net margin method consisting of comparing the net profit margin relative to an appropriate base, such as costs, sales or assets, that a person achieves in a controlled transaction with the net profit margin relative to the same base achieved in comparable uncontrolled transactions; and
- (f) the Transactional Profit Split Method, which is the transactional profit split method consisting of allocating to each associated person participating in a controlled transaction the portion of common profit (or loss) derived from such transaction that an independent person would expect to earn from engaging in a comparable uncontrolled transaction. When it is possible to determine an arm's length remuneration for some of the functions performed by the associated persons in connection with the transaction using one of the approved methods described in paragraphs 5(5) (a) to (d), the transactional profit split method shall be applied based on the common residual profit that results once such functions are so remunerated

(6) Where, taking account of the criteria described in paragraph 5(3), a comparable uncontrolled price method described in paragraph 5(5) (a) and an approved method described in paragraphs 5(5) **(b) to (e)** can be applied with equal reliability, the determination of arm's length conditions shall be made using the comparable uncontrolled price method.

(7) Where, taking account of the criteria described in paragraph 5(3), an approved method described in subparagraphs 5(5) (a) to (c) and an approved method described in subparagraphs 5(5) (d) to (e) can be applied with equal reliability, the determination of arm's length conditions shall be made using the method described in subparagraphs 5(5) (a) to (c).

(8) It shall not be necessary to apply more than one method to determine the arm's length remuneration for a given controlled transaction.

(9) A transfer pricing method other than the approved methods contained in paragraph 5(5) may be applied where the Commissioner is satisfied that—

- (a) none of the approved methods can be reasonably applied to determine arm's length conditions for the controlled transaction, and
- (b) such other method yields a result consistent with that which would be achieved by independent persons engaging in comparable uncontrolled transactions under comparable circumstances.

(10) When a method other than the approved methods contained in paragraph 5(5) is used it shall establish that the requirements of this paragraph 5(9) have been satisfied.

(11) When applying a cost plus, resale price or transactional net margin method, provided under paragraph 5, it shall be necessary to select the party, hereinafter referred to as the "tested party", to the transaction for which a financial indicator, mark-up on costs, gross margin, or net profit indicator, is tested under the applicable transfer pricing method.

(12) The selection of the tested party should be consistent with the functional analysis of the transaction.

(13) Where a taxpayer has used a transfer pricing method to establish the remuneration of its controlled transactions and that transfer pricing method is consistent with the provisions of this Paragraph 5, then the tax administration's examination of whether the conditions of the taxpayer's controlled transactions are consistent with the arm's length principle shall be based on the transfer pricing method applied by the taxpayer.

*Evaluation of taxpayer's combined controlled transactions*

5. If a taxpayer carries out, under the same or similar circumstances, two or more controlled transactions that are economically closely linked to one another or that form a continuum such that they cannot reliably be analysed separately, those transactions may be combined to (i) perform the comparability analysis set out paragraph 4 and (ii) apply the transfer pricing methods set out in paragraph 5.

*Arm's length range*

6. (1) An arm's length range is a range of relevant financial indicator figures (e.g. prices, margins or profit shares) produced by the application of the most appropriate transfer pricing method as set out in Paragraph 5 to a number of uncontrolled transactions, each of which is relatively equally comparable to the controlled transaction based on a comparability analysis conducted in accordance with paragraph 4.

(2) A controlled transaction, or a set of transactions that are combined according to Paragraph 6 shall not be subject to an adjustment under Section 98B where the relevant financial indicator derived from the controlled transaction or set of transactions and being tested under the appropriate transfer pricing method is within the arm's length range.

(3) Where the relevant financial indicator derived from a controlled transaction, or from a set of transactions that are combined according to Paragraph 6, falls outside the arm's length range, the Commissioner may adjust it pursuant to Section 98B (1), and any such adjustment shall be to the median in the arm's length range.

(4) For the purposes of subparagraph (3), the median of the arm's length range shall be the 50th percentile of the financial indicator figures derived from the comparable uncontrolled transactions forming the arm's length range. For this purpose, the 50th percentile is the lowest financial indicator figure such that at least 50 percent of the financial indicator figures are at or below the value of that figure. However, if exactly 50 percent of the results are at or below a financial indicator figure, then the 50th percentile is equal to the arithmetic mean of that figure and the next highest figure.

*Sources of information on comparable uncontrolled transactions*

7.(1) Possible sources of information on comparable uncontrolled transactions that may include—

- (a) internal uncontrolled transactions, which are uncontrolled transactions where one of the parties to the controlled transaction is also a party to the uncontrolled transaction, and
- (b) external uncontrolled transactions, which are uncontrolled transactions to which neither of the parties to the controlled transaction is a party.

(2) Information concerning a comparable external uncontrolled transaction may not be relied upon by the Commissioner for the purposes of making an adjustment under Section 98B of the Income Tax Act if the information concerning the transaction is not available to the taxpayer.



(3) Information concerning a comparable uncontrolled transaction may not be relied upon by the taxpayer for the purposes of demonstrating the consistency a transaction with Section 98B of the Income Tax Act if the information on the transaction is not available to the Commissioner.

(4) In the absence of information on uncontrolled transactions from the same geographic market as the controlled transaction, comparable uncontrolled transactions from other geographic markets may be accepted by the Commissioner.

(5) A determination of whether comparables from other geographic markets are reliable has to be made on a case-by-case basis, and by reference to the extent to which they satisfy paragraph 4 of this Schedule.

(6) Taxpayers using such comparables would be expected to assess the expected impact of geographic differences and other factors on the price and profitability.

*Services between associated enterprises*

8.(1) A service charge between a taxpayer and a associated person shall be considered consistent with the arm's length principle where —

- (a) it is charged for a service that is actually rendered, and
- (b) the service provides, or when rendered was expected to provide, the recipient with economic or commercial value to enhance its commercial position; and
- (c) it is charged for a service that an independent enterprise in comparable circumstances would have been willing to pay for if performed for it by an independent enterprise, or would have performed in-house for itself, and
- (d) its amount corresponds to that which would have been agreed between independent enterprises for comparable services in comparable circumstances.

(2) A service charge made to a person shall not be consistent with the arm's length principle where it is made by a associated person solely because of the shareholder's ownership interest in one or more other group members, including for any of the following costs incurred or activities undertaken by such associated person—

- (a) costs or activities relating to the juridical structure of the parent company of the first-mentioned person, such as meetings of shareholders of the parent, issuing of shares in the parent company and costs of the parent company's supervisory board; and
- (b) costs or activities relating to reporting requirements of the parent company of the first-mentioned person, including the consolidation of reports; and
- (c) costs or activities related to raising funds for the acquisition of participations, unless those participations are directly or indirectly acquired by the first-mentioned person and the acquisition benefits or is expected to benefit that first-mentioned person.

(3) Where it is possible to identify specific services provided by a taxpayer to a associated person, the determination whether the service charge is consistent with the arm's length principle shall be made for each specific service, subject to the provisions of paragraph 8(4).

(4) Where services are rendered by a taxpayer jointly to various associated persons and it is not possible to identify specific services provided to each of them, the total service charge shall be allocated among the associated persons that benefit or expect to benefit from the services according to reasonable allocation criteria.

(5) For the purpose of this sub-regulation, allocation criteria shall be viewed as reasonable where they are based on a variable or variables that—

- (a) take into account the nature of the services, the circumstances under which they are provided and the benefits obtained or that were expected to be obtained by the persons for which the services are intended; and
- (b) relate exclusively to uncontrolled, rather than controlled, transactions; and
- (c) are capable of being measured in a reasonably reliable manner.

*Transactions involving intangible property*

9.(1) The determination of arm's length conditions for controlled transactions involving licenses, sales or other transfers of intangible property between associated persons shall take into account both the perspective of the transferor of the property and the perspective of the transferee, including in particular the pricing at which a comparable independent enterprise would be willing to transfer the property and the value and usefulness of the intangible property to the transferee in its business.

(2) In applying the provisions of paragraph 4 to a transaction involving the license, sale or other transfer of intangible property, consideration shall be given to any special factors relevant to the comparability of the controlled and uncontrolled transactions, including —

- (a) the expected benefits from the intangible property; and
- (b) any geographic limitations on the exercise of rights to the intangible property; and
- (c) the exclusive or non-exclusive character of the rights transferred; and
- (d) whether the transferee has the right to participate in further developments of the intangible property by the transferor.

*Corresponding adjustments for domestic transactions*

10.(1) The determination of arm's length conditions for controlled transactions involving licenses, sales or other transfers of intangible property between associated persons shall take into account both the perspective of the transferor of the property and the perspective of the transferee, including in particular the pricing at which a comparable independent enterprise would be willing to transfer the property and the value and usefulness of the intangible property to the transferee in its business.

(2) In applying the provisions of paragraph 4 to a transaction involving the license, sale or other transfer of intangible property, consideration shall be given to any special factors relevant to the comparability of the controlled and uncontrolled transactions, including—

- (a) the expected benefits from the intangible property; and
- (b) any geographic limitations on the exercise of rights to the intangible property; and
- (c) the exclusive or non-exclusive character of the rights transferred; and
- (d) whether the transferee has the right to participate in further developments of the intangible property by the transferor.

*Corresponding adjustments for domestic transactions*

11.(1) Where an adjustment is made by the Commissioner under Section 98B to the taxable income of a taxpayer in relation to domestic transaction, then, the Tax Authority shall make an appropriate adjustment to the taxable income of the other party to the transaction.

*Corresponding adjustments for international transactions*

12.(1) A service charge between a taxpayer and a associated person shall be considered consistent with the arm's length principle where —

- (a) an adjustment to the conditions of transactions between a person resident in Zimbabwe and an associated person is made or proposed by a tax administration in a country other than Zimbabwe, and
- (b) this adjustment results in the taxation in that other country of an amount of income on which the person resident in Zimbabwe has already been charged to tax in Zimbabwe;
- (c) the country making or proposing the adjustment has a treaty with Zimbabwe that reflects an intention to provide for the relief of economic double taxation.

(2) The Commissioner, shall after a request is made by the person resident in Zimbabwe, examine the consistency of that adjustment with the arm's length principle provided for under section 98B, consulting as necessary with the competent authority of the other country.

(3) If the adjustment proposed or made by the other country is consistent with the arm's length principle both in principle and as regards the amount, the Commissioner shall make a corresponding adjustment to the amount of the tax charged in Zimbabwe to that person on those profits, in order to eliminate the economic double taxation that would result from the inclusion of the same profits in the taxable income of both that person and the associated person.

(4) A request under paragraph 11(1) must include the information necessary for the Commissioner to examine the consistency of the adjustment made by the tax administration of the other country with the arm's length principle, including —

- (a) the name, registered address and, where applicable, trading name(s) of the related person, and
- (b) evidence of the tax residence of the related person;
- (c) the year(s) in which the adjusted controlled transaction(s) took place;
- (d) the amount of the requested corresponding adjustment and the amounts of the adjustment made by the tax administration of the other country;
- (e) evidence of the adjustment made by the tax administration of the other country and the basis for the adjustment, including details of comparability analysis relied upon and the transfer pricing method applied;
- (f) confirmation that the related person party will not, or is unable to, pursue any further recourse under the domestic law of the other country that may result in the adjustment made by the tax administration of the other country being reduced or reversed;
- (g) any other information that may be relevant for examining the consistency of the adjustment with the arm's length principle.

(5) The request must be made within the applicable time period for making a request for the case to be resolved by way of mutual agreement procedure under the applicable tax treaty.

*Relevance of OECD Transfer Pricing Guidelines*

13. The Organization for Economic Cooperation and Development (OECD) "Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations" are a relevant source of

interpretation for these Regulations. There may also be other relevant sources such as the United Nations Practical Manual on Transfer Pricing for developing countries.

*Application of Section 98B to domestic transactions*

14. Section 98B shall not apply where a person resident in Zimbabwe engages directly or indirectly in any transaction, operation or scheme, with a associated person resident in Zimbabwe except where the following Parts or Sections of the Income Tax Act apply to one or both of those persons.”.

PART III

STAMP DUTIES

**8 Condonation of underpayment of stamp duty on policies or certificates of insurance, etc.**

(1) The underpayment between the 1<sup>st</sup> February, 2009, to the 30<sup>th</sup> July, 2015, of the stamp duty referred to in subsection (2) in the circumstances referred to in subsection (3) is hereby condoned.

(2) The stamp duty in question is payable under item 1 (“Bonds”) of the Schedule (“Stamp Duty on Instruments and other Matters”) to Chapter II of the Finance Act [*Chapter 23:04*].

(3) The underpayment resulted from the erroneous application by insurance companies and insurance brokers (on the basis of mistaken advice communicated to insurance companies and insurance brokers collectively) of stamp duty at the rate of US\$9,01 instead of US\$0,05 for every dollar worth of premiums payable on policies or certificates of insurance or renewals thereof or on other documents which are in the form of guarantee, fidelity, security or surety bonds and which are signed by an insurance company or by any person transacting business on behalf of brokers or underwriters at Lloyd’s.

PART IV

VALUE ADDED TAX

**9 Amendment of section 11 of Cap. 23:12**

With effect from the 1<sup>st</sup> September, 2015, section 11 (“Exempt supplies) the Value Added Tax Act [*Chapter 23:12*] is amended in paragraph (a) and by the repeal of subparagraph (i) the substitution of—

- “(i) the supply of short-term insurance by insurance agents or brokers liable to property and insurance commission tax under section 36H of the Income Tax Act [*Chapter 26:04*]:

For the purpose of this subparagraph the short-term insurance in question shall be deemed to be a supply of financial services by the agents or brokers in question, and not by the insurance company or reinsurance company on behalf of which the brokers or agents buy or sell any policy of insurance:

Provided tax shall be payable on the amount of the commission earned by such agents or brokers and not on the value of the policy of insurance;”

## PART V

## CUSTOMS AND EXCISE

**10 New section substituted for section 172D of Cap. 23:02**

With effect from the 1<sup>st</sup> January, 2016, the Customs and Excise Act [*Chapter 23:02*] is amended by the repeal of section 172D and the substitution of—

“172D Rate of excise duty on second-hand motor vehicle on which special excise duty payable

For the purposes of this Part, the rate of special excise duty on the sale of a second-hand shall be calculated by reference to the Schedule.”.

**11 New Schedule inserted in Cap. 23:02**

With effect from the 1<sup>st</sup> January, 2016, the Customs and Excise Act [*Chapter 23:02*] is amended by the insertion of the following Schedule—

**“SCHEDULE (Section 172D)****RATES OF SPECIAL EXCISE DUTY ON SECOND-HAND MOTOR VEHICLES**

<b>Number of Years</b>	<b>Engine Capacity</b>	<b>Proposed Excise Duty Rate (US\$)</b>
0-4	1000 cc	\$300
	1001-1500 cc	\$400
	1501 – 2000 cc	\$500
	2001 – 2500 cc	\$600
	2501 – 3000 cc	\$600
	3001 – 3500 cc	\$600
	Above 3501 cc	\$600
5-10	1000 cc	\$150
	1001-1500 cc	\$200
	1501 – 2000 cc	\$250
	2001 – 2500 cc	\$300
	2501 – 3000 cc	\$400
	3001 – 3500 cc	\$400
	Above 3501 cc	\$400
	1000 cc	\$75

11-15	1001-1500 cc	\$100
	1501 – 2000 cc	\$150
	2001 – 2500 cc	\$200
	2501 – 3000 cc	\$200
	3001 – 3500 cc	\$200
	Above 3501 cc	\$200
16-20	1000 cc	\$50
	1001-1500 cc	\$75
	1501 – 2000 cc	\$100
	2001 – 2500 cc	\$150
	2501 – 3000 cc	\$150
	3001 – 3500 cc	\$150
	Above 3501 cc	\$150
Above 20	All Engine Capacity	\$50.”.

## PART VI

## MINES AND MINERALS

*Amendments to Chapter VII of Finance Act [Chapter 23:04]***12 Amendment of Schedule to Chapter VII of Cap. 23:04**

With effect from the 1<sup>st</sup> October, 2014, the Schedule to Chapter VII of the Finance Act [*Chapter 23:04*] is amended by the repeal in paragraph 1 (which fixes the rates of royalties for the purposes of section 245 of the Mines and Minerals Act [*Chapter 21:05*]) of the item on gold produced by miners other than small-scale gold miners, and the substitution of the following item—

“Gold produced by other miners who have not realised any increment in their output in the current year of assessment compared to the output as at the end of the preceding year of assessment .....

5:

Gold produced by other miners who have realised any increment in their output in the current year of assessment compared to the output as at the end of the preceding year of assessment (for the

purpose of this item, royalty shall be paid at the rate of 5% and the reduction in the rate due to the increment found to have been archived at the end of the current year of assessment shall be offset against the royalty payable for the following year of assessment) .....

3:??