

- (vi) an installation or structure for the exploration of natural resources;
- (vii) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (viii) a building site, or construction or installation project;
- (b) a company is not regarded as having a permanent establishment in Zimbabwe by reason of the fact that it carries on business there through an agent of independent status acting in the ordinary course of his or her business (where, however, a person acts exclusively or almost exclusively on behalf of one or more companies to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such company);
- (c) nor is a company regarded as having a permanent establishment in Zimbabwe by reason of the fact of—
  - (i) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - (ii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - (iii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - (iv) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - (v) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity;
  - (vi) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (i) to (v):

Provided that such activity or, in the case of subparagraph (vi), the overall activity of the fixed place of business, is of a preparatory or auxiliary character;

- (d) for the purposes of this section, a person is closely related to a company if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or companies. In any case, a person shall be considered to be closely related to a company if one possesses directly or indirectly more than fifty *per centum* of the beneficial interest in the other (or, in the case of a company, more than fifty *per centum* of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than fifty *per centum* of the beneficial interest (or, in the case of a company, more than fifty *per centum* of



the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the company.”

#### 10 Amendment of section 72 of Cap. 23:06

Section 72 (“Payment of provisional tax”) of the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following subsection after subsection (13)—

“(14) With particular reference to subsection (13) (b), the Commissioner-General may, on application by a taxpayer who qualifies as a “small or medium enterprise” as defined in section 2B of the Charging Act, permit such taxpayer to pay provisional tax under this section on a monthly basis, that is to say, one month at a time in advance.”

#### 11 New section inserted after section 80F in Cap. 23:06

With effect from the 1st January, 2017, the Income Tax Act [*Chapter 23:06*] is amended by the insertion after section 80F of the following section—

“80FF Commissioner may require registered taxpayers to become registered users

(1) The Commissioner may, by notice in writing to any taxpayer who renders a self-assessment return, require such taxpayer to become a registered user.

(2) On receiving a notice the taxpayer concerned shall make an application in terms of section 80F to become a registered user.

(3) A taxpayer upon whom the Commissioner has served a notice in terms of subsection (1) and who fails without just cause to comply with the notice within the first seven days of the period of one hundred and eighty-one days referred to in paragraph (a) below, shall—

(a) be liable for a civil penalty of thirty United States dollars (or the maximum monetary figure specified from time to time for level four, whichever is the lesser amount) for each day the registered taxpayer remains in default, not exceeding a period of one hundred and eighty-one days:

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

(b) if the registered taxpayer continues to be in default after the period specified in paragraph (a), be guilty of an offence and liable on conviction to a fine not exceeding level ten or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) A civil penalty order that becomes payable by the infringer shall constitute a debt due by the infringer to the Zimbabwe Revenue Authority and shall at any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Authority.

(5) The amount of a civil penalty shall be paid into and form part of the funds of the Zimbabwe Revenue Authority.”



**12 New section inserted after section 98B 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 section after section 98B—

**“98C Reporting of unprofessional conduct**

(1) For the purposes of this section “controlling body” means any professional association, body or board which has been established, whether voluntarily or by or under any law, for the purpose of exercising control over the carrying on of any profession, calling or occupation and which has power to take disciplinary action against any person who in the carrying on of such profession, calling or occupation fails to comply with or contravenes any rules or code of conduct laid down by such association, body or board.

(2) Where any person who carries on any profession, calling or occupation in respect of which a controlling body has been established has, in relation to the affairs of any other person, hereinafter referred to as a client, done or omitted to do anything which in the opinion of the Commissioner—

- (a) was intended to enable or assist the client to evade or unduly postpone the performance of any duty or obligation imposed on such client by or under this Act or to obtain any refund of tax under this Act to which such client is not entitled, or by reason of negligence on the part of such person resulted in the avoidance or undue postponement of the performance of any such duty or obligation or the obtaining of any such refund; and
- (b) constitutes a contravention of any rule or code of conduct laid down by the controlling body which may result in disciplinary action being taken against such person by the body;

the Commissioner may lodge a complaint with the said controlling body.

(3) The Commissioner may in lodging any complaint under subsection (2) disclose such information relating to the client’s affairs as in the opinion of the Commissioner it is necessary to lay before the controlling body to which the complaint is made.

(4) Before lodging any such complaint or disclosing any information the Commissioner shall deliver or send to the client and the person against whom the complaint is to be made a written notification of his or her intended action setting forth particulars of the said information.

(5) The client or the said person may within thirty days after the date of such written notification lodge in writing with the Commissioner any objection he or she may have to the lodging of the said complaint.

(6) If on the expiry of the said period of thirty days no objection has been lodged as contemplated in subsection (5), or if an objection has been lodged and the Commissioner is not satisfied that the objection should be sustained, the Commissioner may thereupon lodge the complaint as contemplated in subsection (2).

(7) The complaint shall be considered by the controlling body to which it is made and may be dealt with by it in such manner as the controlling body in terms of its rules sees fit:



Provided that any hearing of the matter shall not be public and may only be attended by persons whose attendance, in the opinion of the controlling body, is necessary for the proper consideration of the complaint.

(8) The controlling body with which a complaint is lodged and its members shall at all times preserve and aid in preserving secrecy in regard to such information as to the affairs of the client as may be conveyed to them by the Commissioner or as may otherwise come to their notice in the investigation of the Commissioner's complaint and shall not communicate such information to any person whatsoever other than the client concerned or the person against whom the complaint is lodged, unless the disclosure of such information is ordered by a competent court of law."

### 13 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) in paragraph 1 by the repeal of paragraph (f) and the substitution of the following—
  - "(f) the wholly owned company of the Reserve Bank of Zimbabwe called the Zimbabwe Asset Management Corporation (Private) Limited (ZAMCO), incorporated in terms of the Companies Act [Chapter 24:03] on the 15th July 2014, with effect from that date.";
- (b) by the repeal of paragraph 9 and the substitution of—
  - "9. An amount received by or accrued to or in favour of a person by way of a dividend from a company which is incorporated in Zimbabwe and is charged or chargeable to income tax. (This exemption does not, however, apply to any amount received by or accrued to or in favour of a person by way of a dividend deemed to have been paid in terms of section 26 (2) or 28 (2)).";
- (c) by the insertion of the following paragraph after paragraph 15—
  - "16. A premium paid by the Reserve Bank of Zimbabwe on receipts of earnings by exporters and on remittances from abroad received by individuals resident in Zimbabwe, being receipts or remittances channelled through any authorised dealer in terms of the Exchange Control Act [Chapter 22:05]."

### 14 Amendment of Fourth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Fourth Schedule ("Deductions to be Allowed in Respect of Buildings, Improvements, Machinery and Equipment Used for Commercial, Industrial and Farming Purposes, and Other Provisions Relating Thereto") to the Income Tax Act [Chapter 23:06] is amended in paragraph 9 ("Rates of special initial allowance") by the insertion after paragraph (h) of the following paragraph—

- "(h1) on the 1st January, 2010, or on any subsequent year of assessment, ending on the 31st December, 2013, be a sum equal to twenty-five *per centum*;
- (h2) on the 1st January, 2017, or on any subsequent year of assessment, be a sum equal to one hundred *per centum* in the case of a taxpayer which is a "licensed investor" as defined in section 2:



Provided that fifty *per centum* shall be allowed in the first year of assessment in which the taxpayer claims the special initial allowance in terms of this subparagraph, and twenty-five *per centum* in each of the next two years of assessment following that year;”.

#### 15 Amendment of Ninth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Ninth Schedule (“Non-Residents Shareholders’ Tax”) to the Income Tax Act [Chapter 23:06] is amended—

- (a) in paragraph 1 (“Interpretation”) (1) in the definition of “dividend”, by the repeal of paragraph (h) and the substitution of—
  - “(h) any amount so distributed by a licensed investor having a qualifying degree of export orientation which arises from its operations in a special economic zone;”;
- (b) in paragraph 2A (“Payment of tax where dividend deemed to have been paid in terms of section 26 (2)”) by the deletion of “for that dividend upon written notification by the Commissioner of the tax due” and the substitution of “for that deemed dividend in accordance with the provisions on self-assessment as provided for in section 37A”.

#### 16 Amendment of Fifteenth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Fifteenth Schedule (“Resident Shareholders’ Tax”) to the Income Tax Act [Chapter 23:06] is amended—

- (a) in paragraph 1 (“Interpretation”) (1) in the definition of “dividend” by the repeal of paragraph (f) and the substitution of—
  - “(f) any amount so distributed by a licensed investor having a qualifying degree of export-orientation which arises from its operations in a special economic zone; and”;
- (b) in paragraph 2A (“Payment of tax where dividend deemed to have been paid in terms of section 28 (2)”) by the deletion of “for that dividend upon written notification by the Commissioner of the tax due” and the substitution of “for that deemed dividend in accordance with the provisions on self-assessment as provided for in section 37A”.

#### 17 Amendment of Seventeenth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Seventeenth Schedule (“Non-Residents’ Tax on Fees”) to the Income Tax Act [Chapter 23:06] is amended in paragraph 1 (“Interpretation”)(1) in the definition of “fees”—

- (a) by the repeal of paragraph (g) and the substitution of—
  - “(g) services rendered to a licensed investor in respect of its operations in a special economic zone;”;
- (b) by the insertion of the following paragraph after paragraph (i)—
  - “(j) non-executive fees subject to tax in terms of the Thirty-Third Schedule;”.

#### 18 Amendment of Nineteenth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2017, the Nineteenth Schedule (“Non-Residents’ Tax on Royalties”) to the Income Tax Act



[Chapter 23:06] is amended in paragraph 1 (“Interpretation”)(1) by the repeal of the definition of “non-resident person” and the substitution of—

““non-resident person” means—

- (a) a person, other than a company, who; or
- (b) a partnership or foreign company which;
 

is not ordinarily resident in Zimbabwe, but does not include a person, partnership or foreign company that is a licensed investor having a qualifying degree of export-orientation;”.

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

With effect from the year of assessment beginning on the 1st January, 2017, the Twenty-Sixth Schedule (“Presumptive tax”) to the Income Tax Act [Chapter 23:06] is amended in paragraph 1 (“Interpretation”) by the repeal of the definition of “informal trader” and the substitution of—

““informal trader” means an individual who—

- (a) carries on a trade for his or her own account from which he or she derives a gross income of less than six thousand United States dollars or such other amount as the Minister may prescribe by notice in the *Gazette*; and
- (b) has not, in the most recent year of assessment for which he or she could have done so, furnished a return in terms of Part V for the assessment of the income referred to in paragraph (a);

and, without limiting the generality of paragraph (a), includes—

- (c) a hawker or street vendor; and
- (d) a person who sells articles at a place commonly known as a “people’s market” or a “flea market”; and
- (e) a person who manufactures or processes any articles in or from residential premises;

but does not include a small-scale miner, operator of a taxicab, omnibus or goods vehicle, informal cross-border trader, operator of a restaurant or bottle-store or a cottage industry operator;”.

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

With effect from the year of assessment beginning on the 1st January, 2017, the Thirty-First Schedule (“NOCZIM debt redemption and strategic reserve levy”) to the Income Tax Act [Chapter 23:06] is amended in paragraph 2 (“Liability for NOCZIM debt redemption and strategic reserve levy”)(1) by the deletion of “every oil company and other person or entity that” and the substitution of “every oil company and other person or entity (other than the State) that”.

### PART III

#### VALUE ADDED TAX

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

#### 21 New section substituted for section 29 of Cap. 23:04

With effect from the 1st January, 2017, section 29 of the Finance Act [Chapter 23:04] is repealed and substituted by—



**“29 Rates of value added tax**

(1) The rate of value added tax shall be as set out in the Schedule.

(2) The rate of value added withholding tax shall be as set out in Part IV.”.

**22 Amendment of Schedule to Chapter IV of Cap. 23:04**

With effect from the 1st January, 2017, the Schedule to Chapter IV of the Finance Act [*Chapter 23:04*] is amended by the insertion of the following Part after Part III—

**“PART IV**

**VALUE ADDED WITHHOLDING TAX**

The amount of value added withholding tax to be withheld by a value added withholding tax agent in terms of section 50A of the principal Act shall be two-thirds of the output tax to be paid to a specified operator.”.

*Amendment to Value Added Tax Act [Chapter 23:12]*

**23 Amendment of section 2 of Cap. 23:12**

Section 2 (“Interpretation”)(1) of the Value Added Tax Act [*Chapter 23:12*](1) is amended in the definition of “financial services” by the repeal of paragraph (a) and the substitution of—

“(a) any service provided by or on behalf of a banking or other institution that is a participant in a payment system registered in terms of the National Payment Systems Act [*Chapter 24:23*] (No. 21 of 2001); or”.

**24 New section inserted after section 50 of Cap. 23:12**

With effect from the 1st January, 2017, the Value Added Tax Act [*Chapter 23:12*] is amended by the insertion in Part VIII of the following section after section 50—

**“50A Commissioner may appoint value added withholding tax agents**

(1) If the Commissioner reasonably believes that any registered operator or significant number of registered operators in any sector of the economy have not been regularly submitting returns of output tax charged and input tax paid in terms of this Act, or not submitting truthful returns, the Commissioner may by notice in writing appoint any registered operator who purchases goods and services from the first-mentioned registered operator or class of registered operators (hereinafter referred to as “specified operators”) to be a value added tax withholding agent in relation to that specified operator or class of specified operators for the period specified in the notice or until the Commissioner revokes the notice, whichever is the earlier.

(2) Every value added withholding tax agent shall—

(a) withhold the portion of the full amount of output tax specified in the Charging Act from each amount to be paid to a specified operator; and

(b) remit each amount so withheld to the Commissioner on or before the 15th of the following month or any other date that Commissioner may fix in the specifying notice or prescribe.

(3) When submitting a return in terms of section 28, every specified operator shall, for the purposes of subsection (4), indicate the amount of



any value added withholding tax withheld by the value added withholding tax agent.

(4) The Commissioner shall in determining tax payable in terms of section 15, credit the account of the specified operator with the value added withholding tax withheld in terms of subsection (2).

(5) For the avoidance of doubt, it is declared that the withholding of tax under subsection (2) shall not relieve the supplier of taxable supplies of the obligation to account for tax in accordance with this Act.

(6) Any value added withholding tax agent who fails to withhold or pay to the Commissioner any amount of value added withholding tax in terms of subsection (2) shall be personally liable for the payment, not later than the date on which payment should have been made if value added withholding tax had been withheld in terms of section (2), of the amount of value added withholding tax which he or she failed to withhold or pay to the Commissioner and a further amount equal to such value added withholding tax.

(7) In addition, a value added withholding tax agent who fails to comply with subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding level seven or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.”.

## 25 New section inserted after section 68E in Cap. 23:06

With effect from the 1st January, 2017, the Value Added Tax Act [*Chapter 23:12*] is amended by the insertion after section 68F of the following section—

“68EE Commissioner may require registered operators to become registered users

(1) The Commissioner may, by notice in writing to any registered operator, require such taxpayer to become a registered user.

(2) On receiving a notice the registered operator concerned shall make an application in terms of section 68E to become a registered user.

(3) A registered operator upon whom the Commissioner has served a notice in terms of subsection (1) and who fails without just cause to comply with the notice within the first seven days of the period of one hundred and eighty-one days referred to in paragraph (a) below, shall—

(a) be liable for a civil penalty of thirty United States dollars (or the maximum monetary figure specified from time to time for level four, whichever is the lesser amount) for each day the registered operator remains in default, not exceeding a period of one hundred and eighty-one days:

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

(b) if the registered operator continues to be in default after the period specified in paragraph (a), be guilty of an offence and liable on conviction to a fine not exceeding level ten