

Act No. 8 of 2005

Gazetted : 30th December, 2005.

Commencement: 30th December, 2005¹

FINANCE (NO. 2) ACT, 2005

ARRANGEMENT OF SECTIONS

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PRELIMINARY

Section

1. Short title.

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INCOME TAX

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

Amendments to Income Tax Act [Chapter 23:06]

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¹ But note that some sections have their own effective dates.

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20. Amendment of Nineteenth Schedule to Cap. 23:06.
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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, 2005.

PART II

INCOME TAX

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

2 Amendment of section 14 of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2006, section 14 ("Income tax for periods of assessment after 1.4.88") of the Finance Act [*Chapter 23:04*] is amended in subsection (2)—

- (a) by the deletion of "1st January, 2005," and the substitution of "1st January, 2006,";
- (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 taxable income from employment—
 - (i) so much as does not exceed eighty-four million dollars;
 - (ii) so much as exceeds eighty-four million dollars but does not exceed one hundred and ninety-two million dollars;
 - (iii) so much as exceeds one hundred and ninety-two million dollars but does not exceed three hundred and thirty-six million dollars;
 - (iv) so much as exceeds three hundred and thirty-six million dollars but does not exceed four hundred and eighty million dollars;
 - (v) so much as exceeds four hundred and eighty million dollars;"

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

(1) With effect from the 1st January, 2006, section 22C ("Presumptive tax") of the Finance Act [*Chapter 23:04*] is amended by the insertion of the following paragraphs after paragraph (g)—

"(h) operators of goods vehicles having a carrying capacity—

- (i) of more than ten tonnes but less than twenty tonnes, twelve million dollars per quarter year;
- (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, twelve million dollars per quarter year;
- (iii) of twenty tonnes or more, twenty million dollars per quarter year;

(i) operators of driving schools providing driving tuition—

- (i) for class 4 vehicles only, eight million dollars per quarter year;
- (ii) for class 1 and 2 vehicles (whether or not in addition to providing driving tuition for other classes of vehicles), twelve million dollars per quarter year."

(2) Section 4 ("New section substituted for section 22C of Cap. 23:04") of the Finance Act, 2005 (Act No. 2 of 2005) is amended with effect from the 1st September, 2005, by the deletion of "the 31st December, 2005" and the substitution of "the 20th October, 2005".

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

With effect from the 1st January, 2006, section 22E of the Finance Act [*Chapter 23:04*] is repealed and substituted by—

"22E Carbon tax

(1) The carbon tax chargeable in terms of section 36E of the Taxes Act shall be paid at the rate of one thousand dollars per litre of petroleum product imported by the State oil procurement entity and any oil company or other person or entity engaged in oil procurement.

(2) In addition, notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], 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 following rates in accordance with the following ranges of engine capacity of a motor vehicle—

- (a) seventy-two United States dollars per month, in the case of a motor vehicle whose engine capacity does not exceed one thousand five hundred cubic centimetres;
- (b) one hundred and thirty-two United States dollars per month, in the case of a motor vehicle whose capacity exceeds one thousand five hundred cubic centimetres but does not exceed two thousand cubic centimetres;

- (c) one hundred and eighty United States dollars per month, in the case of a motor vehicle whose capacity exceeds two thousand cubic centimetres but does not exceed three thousand cubic centimetres;
- (d) three hundred and sixty United States dollars per month, in the case of a motor vehicle whose capacity exceeds three thousand cubic centimetres:

Provided that—

- (i) if a visitor to Zimbabwe stays in Zimbabwe for a longer period than the period for which he or she originally paid carbon tax, he or she shall, at any time before leaving Zimbabwe, pay the additional carbon tax in respect of such vehicle to the Zimbabwe Revenue Authority in foreign currency as provided in this subsection;
- (ii) where any amount of carbon tax may require payment to be made in coins, the Commissioner-General is authorised to increase or reduce the amount to the nearest figure to enable payment to be made in notes only;
- (iii) if the period during which a visitor stays in Zimbabwe begins in one calendar month and continues to the next calendar month without exceeding thirty days, one month's carbon tax shall be payable."

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

With effect from the year of assessment beginning on the 1st January, 2006, the Schedule ("Credits and Rates of Income Tax") to Chapter I of the Finance Act [*Chapter 23:04*] is amended—

- (a) by the repeal of Part I and the substitution of—

"PART I

CREDITS

<i>Section</i>	<i>Nature of credit</i>	<i>Specified amount</i> \$
10	Credit for taxpayers over 59 years of age	12 000 000
11	Blind persons credit	12 000 000
13	Mentally or physically disabled persons credit	12 000 000";

- (b) in Part II—

- (i) by the deletion of the items relating to the level of taxable income and the substitution of—

<i>"Section</i>	<i>Level of taxable income</i>	<i>Specified percentage</i> %
14(2)(a)(i)	Up to \$84 000 000	0
14(2)(a)(ii)	\$84 000 001 to \$192 000 000	20
14(2)(a)(iii)	\$192 000 001 to \$336 000 000	25

14(2)(a)(iv)	\$336 000 001 to \$480 000 000	30
14(2)(a)(v)	\$480 000 001 and above	35".
(ii)	by the deletion of the item relating to section 14(2)(e) and the substitution of—	
"14(2)(e)	Taxable income of licensed investor (before the end of the fifth year of his operations as such)	0
	Taxable income of licensed investor (after the fifth year of his operations as such).....	15

Amendments to Income Tax Act [Chapter 23:06]

6 Amendment of section 8 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2006, 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" in paragraph (f) II—

- (a) in proviso (viii) by the deletion of "in respect of the year of assessment beginning on the 1st January, 2005, and any subsequent year of assessment," and the substitution of "in respect of the year of assessment beginning on the 1st January, 2006, and any subsequent year of assessment,";

- (b) by the insertion after proviso (viii) of the following provisos—

"(ix) in the case of a motor vehicle, in respect of the year of assessment beginning on the 1st January, 2006, and any subsequent year of assessment, the cost to the employer shall be deemed to be the following—

- (a) nine million dollars, in the case of a motor vehicle whose engine capacity does not exceed one thousand five hundred cubic centimetres;
- (b) fifteen million dollars, in the case of a motor vehicle whose capacity exceeds one thousand five hundred cubic centimetres but does not exceed two thousand cubic centimetres;
- (c) eighteen million dollars, in the case of a motor vehicle whose capacity exceeds two thousand cubic centimetres but does not exceed three thousand cubic centimetres;
- (d) twenty-four million dollars, in the case of a motor vehicle whose capacity exceeds three thousand cubic centimetres;

and such deemed cost shall be reduced proportionally where the period of use of the motor vehicle is less than the year of assessment;

- (x) in the case of a sale or disposal of a motor vehicle to an employee, whether during or on termination of the employee's employment, in respect of the year of assessment beginning on the 1st January, 2006, and any subsequent year of assessment, the deemed benefit shall be determined in accordance with the following formula:

$$A - (B + C)$$

". where—

A represents the market value of the motor vehicle;

- B represents the cost at which the employer acquired the motor vehicle;
- C represents the figure B adjusted for annual inflation (as defined by the Central Statistics Office in respect of each year or part of a year of assessment from the date of acquisition to the date of sale or disposal):

Provided that no advantage or benefit shall be deemed to have accrued to an employee who, on the date of the sale or disposal, is of or over the age of fifty-five years.

In determining the market value of a motor vehicle for the purposes of this paragraph, the Commissioner shall have regard to the valuation of a member of such institution or association of motor dealers or valuers as is prescribed by the Commissioner by notice in the *Gazette*."

7 Amendment of section 36C of Cap. 23:06

Section 36C ("Presumptive tax")(2) of the Income Tax Act [*Chapter 23:06*] is amended by the insertion after "the Finance Act, 2005," of "or (in the case of operators of goods vehicles and driving schools) the Finance (No. 2) Act, 2005".

8 Amendment of section 61 of Cap. 23:06

With effect from the 1st January, 2006, section 61 ("Public officer of companies") of the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following subsection after subsection (8)—

"(8a) If a defaulting company referred to in subsection (8) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the company during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

9 Amendment of section 62 of Cap. 23:06

With effect from the 1st January, 2006, section 62 ("Time and manner of lodging objections")(4) of the Income Tax Act [*Chapter 23:06*] is amended in the proviso thereto by the deletion of "six months" and the substitution of "three months".

10 Amendment of section 80 of Cap. 23:06

With effect from the 1st January, 2006, section 80 ("Withholding of amounts payable under contracts with State or statutory corporations") of the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following subsection after subsection (9)—

"(10) If a defaulting statutory body, quasi-Governmental institution or registered taxpayer referred to in subsection (7) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the statutory body, quasi-Governmental institution or registered taxpayer during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such

interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

11 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-

(a) in paragraph 4—

- (i) with effect from the 1st November, 2005, by the deletion in subparagraph (o) of "five million dollars" and the substitution of "twenty million dollars";
- (ii) with effect from the 2nd December, 2005, in subparagraph (p)—
 - A. by the deletion of "three hundred million" and the substitution of "one billion";
 - B. in the proviso by the deletion of "one thousand million two hundred thousand dollars" and the substitution of "four billion five hundred million dollars";
- (iii) with effect from the year of assessment beginning on the 1st January, 2006, by the repeal of paragraph (v) and the substitution of—

"(v) rental income to a taxpayer who is of or over the age of fifty-five years in respect of the first seventy-two million dollars accruing to the taxpayer in the year of assessment concerned.";

(b) with effect from the year of assessment beginning on the 1st January, 2006, in paragraph 6 by the insertion of the following subparagraph after subparagraph (g)—

"(h) a pension paid from a pension fund or the Consolidated Revenue Fund to a taxpayer who attained the age of fifty-five years before the commencement of the year of assessment;"

(c) with effect from the 1st January, 2006, by the repeal of paragraph 16.

(2) If a bonus is paid in each of the years of assessment ending on the 31st August and 31st December, 2005, and the sum of the bonuses exceeds twenty million dollars in the period of twelve months ending on the 31st December, 2005, the excess amount shall not be exempt from income tax in terms of paragraph 4(o) of the Third Schedule to the Income Tax Act [*Chapter 23:06*].

12 Amendment of Fourth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2006, 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—

(a) in paragraph 1 in the definition of "staff housing" in subparagraph (1)—

- (i) in subparagraph (l) by the insertion after "1st January, 2005," of "but before the 1st January, 2006,";

- (ii) by the insertion after subparagraph (l) of the following subparagraph—
 - "(m) in the case of any such building the erection of which was commenced on or after the 1st January, 2006, any building comprising or incorporating any residential unit the cost of which exceeds one billion five hundred million dollars;"
- (b) in paragraph 14(1)—
 - (i) in subparagraph (j) by the insertion after "1st January, 2005" of ", but before the 1st January, 2006";
 - (ii) by the insertion after subparagraph (j) of the following subparagraph—
 - "(k) one billion dollars shall be disregarded, where the vehicle was purchased on or after the 1st January, 2006."

13 Amendment of Sixth Schedule to Cap. 23:06

(1) With effect from the year of assessment beginning on the 1st January, 2006, the Sixth Schedule ("Deductions in Respect of Contributions to Benefit and Pension Funds and the Consolidated Revenue Fund") to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 10 by the repeal of subparagraph (b) and the substitution of—
 - "(b) seventy-two million dollars;"
- (b) in paragraph 14—
 - (i) in subparagraph (a) by the deletion of "one million four hundred and forty thousand dollars" and the substitution of "seventy-two million dollars";
 - (ii) in subparagraph (b) by the deletion of "one million four hundred and forty thousand dollars" wherever it occurs and the substitution of "seventy-two million dollars";
- (c) in paragraph 15 by the repeal of subparagraph (b) and the substitution of—
 - "(b) seventy-two million dollars;"
- (d) in paragraph 16 by the repeal of subparagraph (b) and the substitution of—
 - "(b) seventy-two million dollars;"
- (e) in paragraph 17(2)—
 - (i) in subparagraph (a) by the deletion of "one million four hundred and forty thousand dollars" and the substitution of "seventy-two million dollars";
 - (ii) in subparagraph (b)—
 - A. by the deletion of "one million four hundred and forty thousand dollars" and the substitution of "seventy-two million dollars";
 - B. in subparagraph (ii)A by the deletion of "seven hundred and twenty thousand dollars" and the substitution of "thirty-six million dollars";
 - C. in the proviso by the repeal of paragraph (b) and the substitution of—
 - "(b) seventy-two million dollars;"
- (f) in paragraph 18(2)—

- (i) by the deletion of "seven hundred and twenty thousand dollars" and the substitution of "seventy-two million dollars";
- (ii) in the proviso by the repeal of paragraph (b) and the substitution of—
 "(b) thirty-six million dollars;".

(2) If a pension or other benefit in terms of the Sixth Schedule to the Income Tax Act [*Chapter 23:06*] was paid in each of the years of assessment ending on the 31st August, 2005, and 31st December, 2005, the pensions or benefits shall, for the purposes of that Schedule, be aggregated and treated as if they were a single pension or benefit paid in a single year of assessment consisting of twelve months ending on the 31st December, 2005.

14 Amendment of Ninth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Ninth Schedule ("Non-Residents Shareholders' Tax") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 ("Penalty for non-payment of the tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting company or agent referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the company or agent during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

15 Amendment of Thirteenth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Thirteenth Schedule ("Employees' Tax") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 10 ("Failure or refusal of employers to withhold or to remit employees' tax") by the insertion of the following subparagraph after subparagraph (3)—

"(4) If a defaulting employer referred to in subparagraph (1)(b) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the employer during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

16 Amendment of Fifteenth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Fifteenth Schedule ("Resident Shareholders' Tax") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 ("Penalty for non-payment of the tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting company or nominee referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the

penalty as remains unpaid by the company or nominee during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

17 Amendment of Sixteenth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Sixteenth Schedule ("Non-Residents' Tax on Interest") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 ("Penalty for non-payment of tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting payer or agent referred to in subparagraph (1)(b) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the payer or agent during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

18 Amendment of Seventeenth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Seventeenth Schedule ("Non-Residents' Tax on Fees") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 ("Penalty for non-payment of the tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting payer or agent referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the payer or agent during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

19 Amendment of Eighteenth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Eighteenth Schedule ("Non-Residents' Tax on Remittances") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 4 ("Penalty for non-payment of tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting non-resident person referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the non-resident person during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

20 Amendment of Nineteenth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Nineteenth Schedule ("Non-Residents' Tax on Royalties") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 ("Penalty for non-payment of tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting payer or agent referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the payer or agent during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

21 Amendment of Twenty-First Schedule to Cap. 23:06

(1) The Twenty-First Schedule ("Residents' Tax on Interest") to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) with effect from the 1st December, 2005, in paragraph 2 ("Financial institutions to withhold tax")(1) by the repeal of the proviso thereto and the substitution of—

"Provided that in the case of interest referred to in paragraph (a)(ii) and (iii) of the definition of "interest" in paragraph 1(1), payment of the interest shall be deemed to have been made on the date of maturity of the Treasury bill, banker's acceptance or other discounted instrument concerned.";

- (b) with effect from the 1st January, 2006, in paragraph 6 ("Penalty for non-payment of tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting financial institution or agent referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the financial institution or agent during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

(2) Section 15 ("Amendment of Twenty-First Schedule to Cap. 23:06") of the Finance Act, 2005 (Act No. 2 of 2005) is amended with effect from the 12th September, 2005, by the deletion of "With effect from the 1st September, 2005, the Twenty-First Schedule" and the substitution of "The Twenty-First Schedule".

22 Amendment of Twenty-Fourth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Twenty-Fourth Schedule ("Tobacco Levy") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 5 ("Penalty for non-payment of tobacco levy") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting auctioneer referred to in subparagraph (1)(b) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be

fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the auctioneer during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

23 Amendment of Twenty-Fifth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Twenty-Fifth Schedule ("Automated Financial Transactions Tax") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 ("Penalty for non-payment of automated financial transactions tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting financial institution referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the financial institution during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

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

With effect from the 1st January, 2006, the Twenty-Sixth Schedule ("Presumptive Tax") to the Income Tax Act [*Chapter 23:06*] is amended—

(a) in paragraph 1 ("Interpretation")—

(i) by the insertion of the following definitions—

""driving school" means a person registered or required to be registered in terms of the Road Traffic (Driving Schools) Regulations, 1985, published in Statutory Instrument 309 of 1985, or any other law substituted for the same;

"goods vehicle", "omnibus" and "taxicab" have the meanings given to those terms by section 2(1) of the Road Motor Transportation Act, 1997 (No. 1 of 1997);";

(ii) by the repeal of the definitions of "operator" and "precious metals" and the substitution of—

""operator", in relation to—

(a) the operation of a goods vehicle, omnibus or taxicab for the carriage of goods or passengers for hire or reward, means the person in whose name the goods vehicle, omnibus or taxicab is or is required to be registered in terms of the Road Motor Transportation Act, 1997 (No. 1 of 1997);

(b) the operation of a driving school, means the person to whom a certificate of registration has been issued in terms of the Road

Traffic (Driving Schools) Regulations, 1985, published in Statutory Instrument 309 of 1985, or any other law substituted for the same;

"precious metals" means gold, silver, platinum, platinoid metals, chrome and tantalite in an unmanufactured state, and includes all such slimes, concentrates, slags, tailings, residues and amalgams as are valuable and contain such precious metals;"

(b) by the deletion of the title to Part IV and the substitution of "TRANSPORT AND DRIVING SCHOOL OPERATORS' PRESUMPTIVE TAX";

(c) in paragraph 11 ("Payment of presumptive tax by operators of passenger transport services") (1)—

(i) by the deletion of the heading thereto and the substitution of "*Payment of presumptive tax by operators of driving schools and transport services*";

(ii) by the insertion of the following subparagraphs after subparagraph (e)—

"or

(f) a goods vehicle for the carriage of goods for hire or reward having a carrying capacity—

(i) of more than ten tonnes but less than twenty tonnes; or

(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; or

(iii) of twenty tonnes or more;

shall pay the amount of presumptive tax that is fixed from time to time in the charging Act; or

(g) a driving school providing driving tuition—

(i) for class 4 vehicles only; or

(ii) for class 1 and 2 vehicles (whether or not in addition to providing driving tuition for other classes of vehicles);

shall pay the amount of presumptive tax that is fixed from time to time in the charging Act:"

(d) by the insertion of the following paragraph after paragraph 14—

"Interest on unpaid penalties

15. If a defaulting lessor referred to in paragraph 5(1), or defaulting agent referred to in paragraph 10(1), does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the lessor or agent during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

25 New Schedule substituted for Twenty-Eighth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Twenty-Eighth Schedule to the Income Tax Act [Chapter 23:06] is repealed and the following is substituted—

"TWENTY-EIGHTH SCHEDULE (Section 36E)

CARBON TAX

Interpretation

1. In this Schedule—

"carbon tax certificate" means a certificate of payment of carbon tax issued in terms of paragraph 4;

"liable person" means a person liable to pay carbon tax in terms of paragraph 3, but does not, for the purposes of this Schedule, include—

- (a) a diplomatic mission which, or any person connected with that mission who, enjoys the privileges and immunities provided under the Privileges and Immunities Act [Chapter 3:03];
- (b) any international or regional organisation upon which the President has conferred any of the privileges and immunities set out in the Third Schedule to the Privileges and Immunities Act [Chapter 3:03];

"motor vehicle" has the meaning given to that term in section 2(1) of the Vehicle Registration and Licensing Act [Chapter 13:14];

"NOCZIM" means the National Oil Company of Zimbabwe (Private) Limited;

"oil company or other person or entity engaged in oil procurement" means a company, person or entity licensed or authorised by the Ministry responsible for energy to import petroleum products in bulk or purchase or import them for resale;

"petroleum product" means—

- (a) leaded or unleaded petrol; or
 - (b) the fuel designed for use in a compression-ignition engine, commonly known as diesel fuel; or
 - (c) any refined petroleum capable of being used as a motor-spirit;
- but does not include aviation fuel, illuminating paraffin or power paraffin;

"State oil procurement entity" means NOCZIM or any other oil procurement entity formed by the State in addition to or substitution for NOCZIM.

Payment of carbon tax under section 22E(1)

2. Whenever an oil company or other person or entity engaged in oil procurement imports any petroleum product, it shall pay the required carbon tax to the Zimbabwe Revenue Authority at the port of entry of the petroleum product.

Liability for and payment of carbon tax by visitors to Zimbabwe

3.(1) A visitor to Zimbabwe who uses within Zimbabwe a motor vehicle registered outside Zimbabwe shall—

- (a) upon entering Zimbabwe; and
- (b) for each month or part of a month during which he visits Zimbabwe;

pay the required carbon tax in respect of such vehicle to the Zimbabwe Revenue Authority, in United States dollars, Euros or any other currency denominated under the Exchange Control (General) Order, 1996 (Statutory Instrument 110 of 1996), at the rate of exchange specified in the Exchange Control (Exchange Rate) Direction, 2002 (Statutory Instrument 223 of 2002) or the equivalent international cross rate of exchange if the tax is paid otherwise than in United States dollars.

(2) Carbon tax shall be payable at any port of entry or branch or division department of the Zimbabwe Revenue Authority responsible for assessing, collecting and enforcing the payment of taxes under this Act:

Provided that if a visitor to Zimbabwe stays in Zimbabwe for a longer period than the period for which he or she originally paid carbon tax he or she shall, at any time before leaving Zimbabwe, pay the additional carbon tax in respect of such vehicle to the Zimbabwe Revenue Authority in foreign currency as provided in this paragraph.

(2) Any person who fails to comply with subparagraph (1) or (2) shall incur a penalty of two *per centum* of the carbon tax due for every week or part of a week during which the default continues, and every such penalty shall be recoverable by the Commissioner by action in any court of competent jurisdiction.

Carbon tax receipt

4.(1) A liable person shall, when paying over any carbon tax in terms of this Schedule, complete a prescribed form.

(2) Upon completion of the prescribed form and payment of the required carbon tax, the certifying authority shall issue him or her with a carbon tax receipt.

(3) A police officer may demand that any liable person produce a carbon tax receipt as proof that he or she has paid the carbon tax.

(4) If any carbon tax receipt is lost or destroyed or any essential particulars thereon have been defaced or if the certificate is dilapidated, the issuing authority, on application by the holder thereof and on payment of the fee, if any, prescribed, shall issue a duplicate carbon tax receipt.

Offence of failing to produce carbon tax receipt and compromise thereof

5.(1) Subject to subparagraph (2), any person in charge of a motor vehicle liable for carbon tax who does not produce a carbon tax receipt when required to do so under paragraph 4, shall, whether or not he or she is the liable person, be guilty of an offence and liable to a fine equal to the amount of the carbon tax payable for the vehicle or, in default of payment, to imprisonment for a period not exceeding six months:

Provided that if the failure to produce the carbon tax receipt was due to its loss or destruction and not to non-payment of carbon tax, a police officer or officer of the Authority may require the person in charge of the motor vehicle concerned or, if he or she is

not the owner of the vehicle, the owner thereof, to produce a duplicate receipt within seven days at such place as the police officer shall specify.

(2) A person referred to in subparagraph (1) may sign and deliver to the police officer referred to in that subparagraph a document admitting that he or she is guilty of the said offence and deposit with such officer a fine equal to the amount of the carbon tax payable for the vehicle, and such person shall thereupon, subject to subparagraph (3), not be required to appear in court to answer the charge of having committed the said offence.

(3) Section 356 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply to the procedure to be followed in relation to an admission of guilt made under subparagraph (2).

(4) The Zimbabwe Republic Police shall furnish to the Commissioner particulars of every person who has compounded or been convicted of an offence in terms of this paragraph."

26 Amendment of Twenty-Ninth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Twenty-Ninth Schedule ("Banking Institution Levy") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 ("Penalty for non-payment of levy") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting banking institution referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the banking institution during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

27 Amendment of Thirtieth Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Thirtieth Schedule ("Intermediated Money Transfer Tax") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 ("Penalty for non-payment of intermediated money transfer tax") by the insertion of the following subparagraph after subparagraph (2)—

"(3) If a defaulting financial institution referred to in subparagraph (1) does not pay the penalty in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the financial institution during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

28 Amendment of Thirty-Second Schedule to Cap. 23:06

With effect from the 1st January, 2006, the Thirty-Second Schedule ("Property or Insurance Commission Tax") to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 5 ("Penalty

for non-payment of tax") by the insertion of the following subparagraph after subparagraph (3)—

"(4) If a defaulting principal referred to in subparagraph (1) does not pay the penalty referred to in subparagraph (1)(b) in full on the date on which the default has ceased, interest, calculated at a rate to be fixed by the Minister by statutory instrument, shall be payable on so much of the penalty as remains unpaid by the principal during the period beginning on the date the default has ceased and ending on the date the penalty is paid in full, and such interest shall be recoverable by the Commissioner by action in any court of competent jurisdiction:

Provided that in special circumstances the Commissioner may extend the time for payment of the penalty without charging interest."

PART III

STAMP DUTIES

29 Amendment of Schedule to Chapter II of Cap. 23:04

With effect from the 1st January, 2006, the Schedule ("Stamp Duty on Instruments and other Matters") to Chapter II of the Finance Act [*Chapter 23:04*] is amended

- (a) in item 2 (1) by the deletion of "or sale";
- (b) in item 3 by the deletion of "2 000 00" and the substitution of "10 000 00".

PART IV

VALUE ADDED TAX

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

30 Amendment of Schedule to Chapter IV of Cap. 23:04

With effect from the 1st January, 2006, Part I ("General Rate of Value Added Tax") of the Schedule to Chapter IV of the Finance Act [*Chapter 23:04*] is amended—

- (a) by the repeal of paragraph (d);
- (b) by the deletion of "seventeen and a half *per centum*" and the substitution of "fifteen *per centum*".

Amendments to Value Added Tax Act [Chapter 23:12]

31 Amendment of section 2 of Cap. 23:12

Section 2 ("Interpretation") of the Value Added Tax Act [*Chapter 23:12*] is amended in subsection (1) by the repeal of the definition of "motor vehicle".

32 Amendment of section 6 of Cap. 23:12

Section 6 ("Value-added tax") of the Value Added Tax Act [*Chapter 23:12*] is amended—

- (a) in subsection (1) by the repeal of paragraph (d);
- (b) in subsection (2) by the repeal of paragraph (d).

33 Amendment of section 11 of Cap. 23:12

Section 11 ("Exempt supplies")(1) of the Value Added Tax Act [*Chapter 23:12*] is amended by the repeal of paragraph (k).

34 Amendment of section 13 of Cap. 23:12

Section 13 ("Collection of value-added tax on imported services, determination of value thereof and exemptions from tax") of the Value Added Tax Act [*Chapter 23:12*] is amended—

- (a) in subsection (1) by the deletion of "Where tax is payable" and the substitution of "Subject to subsection (2a), where tax is payable";
- (b) by the insertion after subsection (1) of the following subsection—

"(2a) Notwithstanding section 41 of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] and the Exchange Control Act [*Chapter 22:05*], where a recipient pays in foreign currency for the supply of imported services on which tax is payable in terms of section 6(1)(d), the recipient shall pay the tax to the Commissioner in foreign currency.

In this subsection "foreign currency" means United States dollars, Euros or any other currency denominated under the Exchange Control (General) Order, 1996, published in Statutory Instrument 110 of 1996, or any other enactment that may be substituted for the same."

35 Repeal of Part IXA of Cap. 23:12

Part IXA of the Value Added Tax Act [*Chapter 23:12*] is repealed.

PART V

ESTATE DUTY

Amendments to Finance Act [Chapter 23:04]

36 Amendment of Schedule to Chapter VI of Cap. 23:04

With effect from the 2nd December, 2005, the Schedule to Chapter VI of the Finance Act [*Chapter 23:04*] is amended by the insertion after paragraph 6D of the following paragraph—

- "6E. In the case of the estate of a person whose estate, regardless of when he or she died, is not finally and completely liquidated to the satisfaction of the Master on the 2nd December, 2005, the rate of estate duty chargeable on each dollar of the dutiable amount shall be arrived at by multiplying two-hundredths (0,02) of a cent by a number equal to the number of complete one hundred dollars contained in the dutiable amount, any part of one hundred dollars being regarded as a complete one hundred dollars:

Provided that—

- (i) the maximum rate of duty shall be five cents;
- (ii) only such portion of the value of the property included in the estate as exceeds ten billion dollars shall be deemed to be the dutiable amount."

*Amendment to Estate Duty Act [Chapter 23:03]***37 Amendment of section 4 of Cap 23:03**

With effect from the year of assessment beginning on the 1st January, 2006, section 4 ("What constitutes an estate") (3) of the Estate Duty Act [*Chapter 23:03*] is amended by in paragraph (d) by the deletion of "one thousand dollars" and the substitution of "ten million dollars".

38 Amendment of section 5 of Cap 23:03

With effect from the year of assessment beginning on the 1st January, 2006, section 5 ("Dutiable amount of estate") of the Estate Duty Act [*Chapter 23:03*] is amended in paragraph (n) by the deletion of "twenty thousand dollars" and the substitution of "one hundred million dollars".

PART VI

CAPITAL GAINS TAX

*Amendment to Finance Act [Chapter 23:04]***39 Amendment section 39 of Cap. 23:04**

With effect from the 17th October, 2005, section 39 ("Rates of capital gains withholding tax") of the Finance Act [*Chapter 23:04*] is amended by the repeal of paragraph (c) and the substitution of—

"(c) in the case of a sale of a marketable security other than a security referred to in paragraph (b), five *per centum* of the price at which the security was sold.".

*Amendment to Capital Gains Tax Act [Chapter 23:01]***40 New section substituted for section 22F of Cap. 23:01**

With effect from the year of assessment beginning on the 1st January, 2006, section 22F of the Capital Gains Tax Act [*Chapter 23:01*] is repealed and the following is substituted—

"22F Exemptions

Notwithstanding section 22C, 22D or 22E, capital gains withholding tax —

- (a) need not be withheld or paid where the amount concerned is exempt from capital gains tax in terms of section 10;
- (b) shall not be withheld or paid on the sale of marketable securities by a unit trust registered as an internal scheme under the Collective Investment Schemes Act, 1997, or as an asset manager under the Asset Management Act [*Chapter 24:26*] (Act No. 16 of 2004), but shall be withheld and paid on the redemption of any unit by an investor in the unit trust.".

PART VII

CUSTOMS AND EXCISE

*Amendment to Finance Act [Chapter 23:04]***41 New Chapter inserted in Cap. 23:04**

With effect from the 1st January, 2006, the Finance Act [*Chapter 23:04*] is amended by the insertion after Chapter VIII of the following Chapter—

"CHAPTER IX

CUSTOMS AND EXCISE

RATE OF SPECIAL EXCISE DUTY ON SALES OF
SECOND-HAND MOTOR VEHICLES**40 Interpretation in Chapter IX**

Any word or expression to which a meaning has been assigned in Part XIIA of the Customs and Excise Act [*Chapter 23:02*] shall bear the same meaning when used in this Chapter.

41 Rate of special excise duty

The rate of special excise duty shall be five *per centum* of the value of second-hand motor vehicle liable for the duty in terms of Part XIIA of the Customs and Excise Act [*Chapter 23:02*]."

*Amendments to Customs and Excise Act [Chapter 23:02]***42 New Part inserted in Cap. 23:02**

With effect from the 1st January, 2006, the Customs and Excise Act [*Chapter 23:02*] is amended by the insertion after Part XII of the following Part—

"PART XIIA

SPECIAL EXCISE DUTY ON SALES OF SECOND-HAND VEHICLES

172A Interpretation in Part XIIA

In this Part—

"Charging Act" means the Finance Act [*Chapter 23:04*] or any other enactment by which rates of tax are fixed;

"second-hand motor vehicle" means a motor vehicle registered or required to be registered in terms of the Vehicle Registration and Licensing Act [*Chapter 13:14*] that is sold or disposed of to any person at any time after it is so registered;

"special excise duty" means the special excise duty on sales or disposals of second-hand motor vehicles referred to in section 172B;

"proper officer" means an officer of the Zimbabwe Revenue Authority designated by the Commissioner to be responsible for assessing, collecting and enforcing the payment of excise duties in terms of this Part.

172B Special excise duty on sales of second-hand motor vehicles

Subject to this Part, there shall be charged, levied and collected, for the benefit of the Consolidated Revenue Fund, a special excise duty on the value of second-hand motor vehicles sold, transferred or otherwise disposed of to any person at such rate as may be fixed by the Charging Act:

Provided that no special excise duty shall be charged, levied or collected on the sale, transfer or disposal of any second-hand motor vehicle—

- (a) between companies under the same control, in the course of or in furtherance of a scheme of reconstruction of a group of companies or a merger or other business operation which, in the opinion of the Commissioner-General, is of a similar nature; or
- (b) between spouses married under the Customary Marriages Act [Chapter 5:05] or the Marriage Act [Chapter 5:11], or between a parent and his or her child of such a marriage; or
- (c) by way of inheritance; or
- (d) to a private voluntary organisation.

172C Special excise duty to be paid before change of ownership of second-hand motor vehicle registered

No registering officer in terms of the Vehicle Registration and Licensing Act [Chapter 13:14] shall register the change of ownership of a second-hand motor vehicle unless there is submitted to the registering officer by the new owner of the second-hand motor vehicle a certificate issued by the proper officer stating that the seller of the second-hand motor vehicle has paid the special excise duty payable in terms of section 172B on the sale or disposal of the motor vehicle.

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

(1) If the proper officer is of the opinion that the sale value of the second-hand motor vehicle is less than the fair value of the second-hand motor vehicle, he or she may determine the fair value of that motor vehicle, and thereupon the special excise duty shall be calculated in accordance with the fair value as determined or the sale value, whichever is the greater amount.

(2) In determining the fair value in terms of subsection (1), the proper officer shall have regard to any valuation of the second-hand motor vehicle concerned made on behalf of the person liable to pay special excise duty by a member of such institution or association of motor dealers or valuers as is prescribed by the Commissioner by notice in the *Gazette*.

(3) If the fair value of a second-hand motor vehicle as determined by the proper officer—

- (a) exceeds the amount of the sale value by not less than one-third of such sale value, the costs of any valuation made by a person referred to in subsection (2) shall be paid by the person liable for the payment of the special excise duty;
 - (b) does not exceed such sale value, the costs of such valuation shall be borne by the proper officer.
- (4) Subsections (2) and (3) shall not apply in respect of the purchase of a motor vehicle sold by public auction, unless the proper officer is satisfied that the sale was not a *bona fide* sale by public auction, or that there was collusion between the seller and the purchaser or their agents."

43 Amendment of section 216A of Cap. 23:02

Section 216A ("Licensing of clearing agents") of the Customs and Excise Act [Chapter 23:02] is amended by the insertion of the following subsection after subsection (10)—

"(11) Any person aggrieved by the refusal of an application for a clearing agents licence under subsection (6) may appeal to the Fiscal Appeal Court in terms of the Fiscal Appeal Court Act [Chapter 23:05]."

PART VIII

AMENDMENT OF GENERAL LAW AMENDMENT ACT [CHAPTER 8:07]

44 New section inserted in Cap. 8:07

With effect from the 1st January, 2006, Part II of the General Law Amendment Act [Chapter 8:07] is amended by the insertion after section 11 of the following section—

"11A Exclusion of *in duplum* rule in certain cases

(1) In this section---

"Authority" means the Zimbabwe Revenue Authority established by the Revenue Authority Act [Chapter 23:11];

"Scheduled Acts" means—

- (a) the Income Tax Act [Chapter 23:06];
- (b) any of the other Acts specified in the First Schedule to the Revenue Authority Act [Chapter 23:11].

(2) The rule of the common law known as the *in duplum* rule that prohibits the payment of outstanding interest in excess of the amount representing the capital or principal sum of a debt shall, from the date of expiry of a notice issued in accordance with subsection (3), not apply to debts by way of outstanding taxes or duties or penalties in respect of the non-payment thereof that are owed to the Authority by a person referred to in the notice ("the debtor") who is liable to pay such taxes, duties or penalties under the Scheduled Acts.

(3) In order to exclude the operation of the *in duplum* rule for the purposes of subsection (2), an officer of the Authority must give notice to a debtor in writing that—

- (a) any tax or duty or penalty in respect of the non-payment thereof is due from the debtor; and

- (b) if payment of the tax or duty or penalty is not made by the debtor within twenty-one days from the date when the notice is served on the debtor, the *in duplum* rule shall not apply to the amount owed by the debtor."

PART IX

AMENDMENT OF FINANCE (NO. 2) ACT, 2004

45 Amendment of Schedule to Act 29 of 2004

The Schedule ("Payment of Provisional Tax: 1st January, 2005, to 31st December, 2007") of the Finance (No. 2) Act, 2004 (Act No. 29 of 2004), is amended as follows in the third column in relation to the dates specified opposite thereto in the second column—

"2006 provisional tax	25th March, 2006	5%
	25th June, 2006	10%
	25th September, 2006	20%
	20th December, 2006	35%".