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FINANCE ACT, 2003

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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 Act, 2003.

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, 2004, section 14 (“Income tax for periods of assessment after 1.4.88”) of the Finance Act [*Chapter 23:04*] is amended in subsection (2) 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 two million four hundred thousand dollars;
 - (ii) so much as exceeds two million four hundred thousand dollars but does not exceed two million six hundred and forty thousand dollars;
 - (iii) so much as exceeds two million six hundred and forty thousand dollars but does not exceed two million eight hundred and eighty thousand dollars;
 - (iv) so much as exceeds two million eight hundred and eighty thousand dollars but does not exceed three million one hundred and twenty thousand dollars;
 - (v) so much as exceeds three million one hundred and twenty thousand dollars but does not exceed three million three hundred and sixty thousand dollars;
 - (vi) so much as exceeds three million three hundred and sixty thousand dollars but does not exceed four million five hundred thousand dollars;
 - (vii) so much as exceeds four million five hundred thousand dollars;”.

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

With effect from the year of assessment beginning on the 1st January, 2004, section 22B (“Automated financial transactions tax”) of the Finance Act [*Chapter 23:04*] is amended by the deletion of “five hundred cents” and the substitution of “fifty dollars”.

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

With effect from the year of assessment beginning on the 1st January, 2004, section 22E of the Finance Act [*Chapter 23:04*] is repealed and substituted by—

“22E Carbon tax

(1) Subject to subsection (2), the carbon tax chargeable in terms of section 36E of the Taxes Act shall be calculated in respect of each motor vehicle for which a person is liable to pay the tax at the following rates in accordance with the following ranges of engine capacity of a motor vehicle—

- (a) twenty thousand dollars, in the case of a motor vehicle whose engine capacity does not exceed one thousand five hundred cubic centimetres;
- (b) thirty-five thousand 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) fifty thousand dollars, in the case of a motor vehicle whose capacity exceeds two thousand cubic centimetres but does not exceed three thousand cubic centimetres;
- (d) one hundred thousand dollars, in the case of a motor vehicle whose capacity exceeds three thousand cubic centimetres.

(2) Notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] or anything provided in or under 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 the required 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, 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, 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, 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, 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, thirty days' carbon tax shall be payable.”.

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

With effect from the year of assessment beginning on the 1st January, 2004, section 22G (“Intermediated money transfer tax”) of the Finance Act [*Chapter 23:04*] is amended by the deletion of “five hundred cents” and the substitution of “fifty dollars”.

6 New section inserted in Cap. 23:04

With effect from the year of assessment beginning on the 1st December, 2003, Part III of Chapter I of the Finance Act [*Chapter 23:04*] is amended by the insertion after section 22G of the following section—

“22H NOCZIM debt redemption levy

The NOCZIM debt redemption levy chargeable in terms of section 36H of the Taxes Act shall be calculated at the rate of one hundred and ten dollars per litre of a petroleum product purchased by an oil company from NOCZIM, or one hundred and ten dollars per litre of the petroleum product imported by an oil company, as the case may be.”.

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

With effect from the year of assessment beginning on the 1st January, 2004, 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	120 000
11	Blind persons credit	120 000
13	Mentally or physically disabled persons credit	120 000”;

(b) in Part II 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 \$2 400 000	0
14(2)(a)(ii)	\$2 400 001 to \$2 640 000	20
14(2)(a)(iii)	\$2 640 001 to \$2 880 000	25
14(2)(a)(iv)	\$2 880 001 to \$3 120 000	30
14(2)(a)(v)	\$3 120 001 to \$3 360 000.....	35
14(2)(a)(vi)	\$3 360 001 to \$4 500 000.....	40

14(2)(a)(vii) \$4 500 001 and more..... 45”.

Amendments to Income Tax Act [Chapter 23:06]

8 Amendment of section 8 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, section 8 (“Interpretation of terms relating to income tax”) of the Income Tax Act [*Chapter 23:06*] is amended in subsection (1) in the definition of “gross income”—

- (a) in subparagraph II of paragraph (f) —
 - (i) in proviso (vi) by the deletion of “in respect of the year of assessment beginning on the 1st January, 2003, and any subsequent year of assessment,” and the substitution of “in respect of the year of assessment beginning on the 1st January, 2004, and any subsequent year of assessment,”;
 - (ii) by the insertion after proviso (vi) of the following proviso—
 - “(vii) in the case of a motor vehicle, in respect of the year of assessment beginning on the 1st January, 2004, and any subsequent year of assessment, the cost to the employer shall be deemed to be the following—
 - (a) six hundred thousand dollars, in the case of a motor vehicle whose engine capacity does not exceed one thousand five hundred cubic centimetres;
 - (b) one million two hundred and sixty thousand 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) two million four hundred and eighty thousand dollars, in the case of a motor vehicle whose capacity exceeds two thousand cubic centimetres but does not exceed three thousand cubic centimetres;
 - (d) three million three hundred and twelve thousand 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;”;
- (b) in paragraph (r) by the deletion from subparagraph (ii) of “two hundred and fifty thousand” and the substitution of “one million”.

9 Amendment of section 15 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, section 15 (“Deductions allowed in determination of taxable income”) of the Income Tax Act [*Chapter 23:06*] is amended in subsection (2)—

- (a) in paragraph (f)—

- (i) in subparagraph (i) by the repeal of the proviso thereto and the substitution of the following—

“Provided that an allowance or deduction in terms of this subparagraph may be claimed in respect of two or more mining locations together, whether or not the expenditure or losses are attributable to either or any one of the mining locations concerned, where the Commissioner is satisfied that the mining operations conducted on the mining locations are inseparable or substantially interdependent;”;

- (ii) by the insertion of the following subparagraph after subparagraph (ii)—

“(iii) where the taxpayer is a miner as defined in subparagraph (ii), the amount of any royalty paid during the year of assessment in terms of section 245 of the Mines and Minerals Act [*Chapter 21:05*];

- (b) in paragraph (r1) by the deletion from the proviso of “ten million dollars” and the substitution of “one hundred million dollars”;
- (c) in paragraph (r2) by the deletion from the proviso of “twenty million dollars” and the substitution of “one hundred million dollars”;
- (d) in paragraph (r3) by the deletion from the proviso of “ten million dollars” and the substitution of “one hundred million dollars”;
- (e) by the insertion after paragraph (r2) of the following paragraph—

“(r3) any amount paid by the taxpayer during the year of assessment, without any consideration whatsoever, to the Public Private Partnership Fund:

Provided that the deduction allowable under this paragraph shall not exceed one hundred million dollars;”.

- (f) in paragraph (w) by the deletion of “one hundred thousand dollars” and the substitution of “five million dollars”;
- (g) by the insertion after paragraph (jj) of the following paragraph—

“(kk) an amount paid by the taxpayer during the year of assessment in respect of expenditure approved by the Minister responsible for local government at the request of the local authority concerned for the maintenance of any one or more of the following things managed or owned by the local authority—

- (i) buildings;
- (ii) roads;
- (iii) bridges;
- (iv) sanitation works;
- (v) water works;
- (vi) public parks;
- (vii) any other utility, amenity or item of infrastructure approved by the Minister responsible for local government:

Provided that the deduction allowable under this paragraph shall not exceed one hundred million dollars.”.

10 Amendment of section 16 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, section 16 (“Cases in which no deduction shall be made”) of the Income Tax Act [*Chapter 23:06*] is amended in subsection (1)—

- (a) by the deletion from paragraph (q) of “from mining operations”;
- (b) in paragraph (r)—
 - (i) by the deletion of “in relation to mining operations incurred on general administration and management by a local branch or subsidiary of a foreign company engaging in local mining operations” and the substitution of “incurred on general administration and management in favour of a company of which the taxpayer is the subsidiary or holding company or (where the company is a foreign company) the local branch”;
 - (ii) in subparagraph (i) by the deletion of “the commencement of production” and the substitution of “the commencement of trade or the production of income”;
 - (iii) in subparagraph (ii) by the deletion of “the commencement of production” and the substitution of “the commencement of trade or the production of income”.

11 Amendment of section 26 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, section 26 (“Non-resident shareholders’ tax”) of the Income Tax Act [*Chapter 23:06*] is amended in subsection (2) by the deletion of “engaging in local mining operations”.

12 Amendment of section 28 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, section 28 (“Resident shareholders’ tax”) of the Income Tax Act [*Chapter 23:06*] is amended in subsection (2) by the deletion of “engaging in local mining operations”.

13 New section inserted in Cap. 23:06

With effect from the year of assessment beginning on the 1st December, 2003, Part IV of the Income Tax Act [*Chapter 23:06*] is amended by the insertion after section 36G of the following section—

“36H NOCZIM debt redemption levy

(1) There shall be charged, levied and collected throughout Zimbabwe for the benefit of the NOCZIM Debt Redemption Sinking Fund a NOCZIM debt redemption levy in accordance with the Thirty-First Schedule at the rate fixed from time to time in the Charging Act.

(2) This section and the Thirty-First Schedule, and section 22 H of the Charging Act, shall lapse on the date when the debts for which the NOCZIM Debt Redemption Sinking Fund was established have been repaid in full.”.

14 Amendment of section 46 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, section 46 (“Additional tax in event of default or omission”) of the Income Tax Act [*Chapter 23:06*] is amended by the insertion after subsection (1) of the following subsection—

“(1a) Where a taxpayer, having previously been required to pay any additional tax in terms of subsection (a), (b), (c), (d) or (e) of subsection (1), makes any default or omission or does any act or thing that would again render him or her liable for payment of additional tax in terms of the same or a different paragraph of that subsection, he or she shall be required, in addition to the tax chargeable in respect of his or her taxable income, to pay an amount of tax equal to twice the amount payable in terms of subsection (a), (b), (c), (d) or (e) of subsection (1), as the case may be.”

15 Amendment of section 71 of Cap. 23:06

Section 71 (“Appointment of day and place for payment of tax”) of the Income Tax Act [*Chapter 23:06*] is amended—

(a) in subsection (2) by the deletion of “Subject to section *seventy-two* and the Thirteenth Schedule, if tax is not paid on or before the date or dates notified by the Commissioner” and the substitution of “If tax is not paid on or before such days and at such places as are fixed or prescribed by or under this Act or, where no such time or place is so fixed or prescribed, as are notified by the Commissioner”;

(b) by the insertion after subsection (2) of the following subsection—

“(3) For the avoidance of doubt it is declared that where any person responsible for the payment of any tax to the Commissioner in terms of the Ninth, Thirteenth, Fifteenth, Sixteenth, Seventeenth or Eighteenth Schedule fails, within the time provided by the Schedule concerned to pay the tax, interest calculated at a rate to be fixed by the Minister by statutory instrument shall be payable on so much of the tax as remains unpaid during the period beginning on the day next following the last day provided in the Schedule concerned for its payment and ending on the date the tax is paid in full.”

16 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 2 with effect from the year of assessment beginning on the 1st January, 2004, by the insertion of the following subparagraph after subparagraph (l) —

“(m) the Deposit Protection Fund established in terms of section 66 of the Banking Act [*Chapter 24:20*].”;

(b) in paragraph 4—

(i) with effect from the 1st November, 2003, in subparagraph (o) by the deletion from subparagraph (ii) of “twenty thousand dollars” and the substitution of “one hundred thousand dollars”;

(ii) with effect from the year of assessment beginning on the 1st January, 2004, in subparagraph (p)—

- A. by the deletion of “three hundred thousand” and the substitution of “one million five hundred thousand”;
 - B. in the proviso by the deletion of “one million five hundred thousand dollars” and the substitution of “fifteen million dollars”;
- (iii) with effect from the 31st December, 2001, by the insertion of the following subparagraph after subparagraph (r)—
- “(s) a reward paid to a person by the Commissioner-General in terms of section 34B of the Revenue Authority Act [*Chapter 23:11*];”;
- (iv) with effect from the year of assessment beginning on the 1st January, 2004, by the insertion of the following subparagraph after subparagraph (s)—
- “(t) the value of an allowance in respect of accommodation and transport, or the value of the grant of quarters or a residence, to any member of staff of a district hospital or rural clinic.

In this subparagraph “district hospital or rural clinic” means a mission hospital or rural clinic owned, operated or sponsored by any religious body or a hospital or rural clinic owned or operated by a rural district council.”.

17 Amendment of Fourth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, 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 (j) by the insertion after “1st January, 2003,” of “but before the 1st January, 2004,”;
 - (ii) by the insertion after paragraph (j) of the following paragraph—

“(k) in the case of any such building the erection of which was commenced on or after the 1st January, 2004, any building comprising or incorporating any residential unit the cost of which exceeds fifty million dollars;”;
- (b) in paragraph 14—
 - (i) in subparagraph (1)—
 - A. in subparagraph (h) by the insertion after “1st January, 2003” of “, but before the 1st January, 2004”;
 - B. by the insertion after subparagraph (h) of the following subparagraph—

“(i) ten million dollars shall be disregarded, where the vehicle was purchased on or after the 1st January, 2004.”;
- (c) in paragraph 15—
 - (i) in subparagraph (1)—

- A. in subparagraph (a)—
 - I. in subparagraph (viii) by the insertion after “1st January, 2003,” of “but before the 1st January, 2004,”;
 - II. by the insertion after subparagraph (viii) of the following subparagraph—
 - “(ix) fifteen million dollars incurred by the taxpayer, where the expenditure was incurred on or after the 1st January, 2004.”;
 - B. in subparagraph (b)—
 - I. in subparagraph (vii) by the insertion after “1st January, 2003,” of “but before the 1st January, 2004.”;
 - II. by the insertion after subparagraph (vii) of the following subparagraph—
 - “(viii) fifty million dollars incurred by the taxpayer, where the expenditure was incurred on or after the 1st January, 2004.”;
- (ii) in subparagraph (2) by the deletion of “one million dollars” and the insertion of “fifty million dollars”.

18 Amendment of Sixth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, 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) seven hundred and twenty thousand dollars.”;
- (b) in paragraph 14—
 - (i) in subparagraph (a) by the deletion of “ninety thousand dollars” and the substitution of “seven hundred and twenty thousand dollars”;
 - (ii) in subparagraph (b) by the deletion of “ninety thousand dollars” wherever it occurs and the substitution of “seven hundred and twenty thousand dollars”;
- (c) in paragraph 15 by the repeal of subparagraphs (a) and (b) and the substitution of—
 - “(a) so much of those contributions as do not exceed seven comma five *per centum* of the member’s annual emoluments; or
 - (b) seven hundred and twenty thousand dollars.”;
- (d) in paragraph 16 by the repeal of subparagraphs (a) and (b) and the substitution of—
 - “(a) so much of those contributions as do not exceed seven comma five *per centum* of the member’s annual emoluments; or
 - (b) seven hundred and twenty thousand dollars.”;
- (e) in paragraph 17 in subparagraph (2)—

- (i) in subparagraph (a) by the deletion of “ninety thousand dollars” and the substitution of “seven hundred and twenty thousand dollars”;
- (ii) in subparagraph (b)—
 - A. by the deletion of “ninety thousand dollars” and the substitution of “seven hundred and twenty thousand dollars”;
 - B. in subparagraph A of subparagraph (ii) by the deletion of “five thousand four hundred dollars” and the substitution of “ninety thousand dollars”;
 - C. in the proviso by the repeal of paragraph (b) and the substitution of—
 - “(b) seven hundred and twenty thousand dollars;”;
- (f) in paragraph 18 in subparagraph (2)—
 - (i) by the deletion of “ninety thousand dollars” and the substitution of “seven hundred and twenty thousand dollars”;
 - (ii) in the proviso by the repeal of paragraph (b) and the substitution of—
 - “(b) seven hundred and twenty thousand dollars;”.

19 Amendment of Thirteenth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, the Thirteenth Schedule (“Employees’ Tax”) to the Income Tax Act [*Chapter 23:06*] is amended

- (a) in paragraph 10 by the insertion after subparagraph (2) of the following subparagraph—
 - “(3) For the purposes of this paragraph the Commissioner may make an assessment in which the amount of employees’ tax for which an employer is personally liable by virtue of subparagraph (1) is estimated, and section *forty-five* shall, with necessary modifications, apply to such assessment.”;
- (b) by the repeal of paragraph 15 and the substitution of—
 - “*Employees’ tax certificate forms*
 - 15.(1) Employees’ tax certificate forms and duplicate employees’ tax certificate forms shall be produced by the employer in such form as the Commissioner may prescribe or approve for general use.
 - (2) In the case of an employer who has a mechanised accounting system the Commissioner may, subject to such conditions as he or she may impose, approve the use by such employer of employee’s tax certificates in a form other than the form prescribed for general use, and if such employer fails to comply with the conditions imposed by the Commissioner, the Commissioner may withdraw his or her consent for the use of such certificates and the employer shall forthwith or from any date specified by the Commissioner cease to use such certificates and shall, within such period as the Commissioner may prescribe, comply with any condition which may have been imposed by the Commissioner providing for the surrender to the Commissioner of all unused stocks of such certificates upon the employer who so ceased to use such certificates.”.

20 Amendment of Twenty-Eighth Schedule to Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2004, the Twenty-Eighth Schedule (“Carbon Tax”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) in paragraph 3 by the repeal of subparagraph (2);
- (b) by the insertion of the following subparagraph after subparagraph (4)—

“(5) With effect from the year of assessment beginning on the 1st January, 2003, the minimum amount of carbon tax payable for the purposes of this paragraph shall be an amount equivalent to thirty days’ carbon tax.”;

- (c) by the insertion of the following paragraphs after paragraph 6—

“Prorated calculation of carbon tax

“7.(1) If a motor vehicle—

- (a) is imported and sold during the year of assessment; or
- (b) is assembled and sold during the year of assessment;

carbon tax shall only be payable in respect of the period beginning from the date of sale of the motor vehicle and be prorated accordingly.

(2) For the purposes of this paragraph, any part of a month shall be deemed to be a full month.

Exemption from payment of carbon tax

8. The Commissioner-General may exempt an owner of a motor vehicle from paying of carbon tax if the owner obtains and furnishes to the Commissioner-General a certificate signed by an officer of the Vehicle Inspection Department that the motor vehicle is unusable for the period during which such exemption is sought.

Transitional provisions

9. Where carbon tax has been paid up to the 31st August, 2003, in terms of the Finance Act, 2001, the taxpayer shall be liable to pay carbon tax at the rate prescribed in the Finance Act, 2002, only for the period from the 1st September, 2003, to the 31st December, 2003.”.

21 New Schedule inserted in Cap. 23:06

With effect from the year of assessment beginning on the 1st December, 2003, the Income Tax Act [*Chapter 23:06*] is amended by the insertion after the Thirtieth Schedule of the following Schedule—

“THIRTY-FIRST SCHEDULE (Section 36H)

NOCZIM DEBT REDEMPTION LEVY

Interpretation

1.(1) In this Schedule—

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

“NOCZIM Debt Redemption Sinking Fund” means the sinking fund established in terms of section 30 of the Exchequer Act [*Chapter 22:03*] for the purposes

referred to in subparagraph (1) of paragraph 3, and administered by the Minister responsible for energy;

“oil company” means—

- (a) BP and Shell Marketing (Private) Limited; or
- (b) Caltex Oil Zimbabwe (Private) Limited; or
- (c) Mobil Oil Zimbabwe (Private Limited; or
- (d) Total Zimbabwe (Private) Limited; or
- (e) Country Petroleum Services; or
- (f) Engen Petroleum Services; or
- (g) Jovenna Energy Services; or
- (h) Royal Oil Services group; or
- (i) Kadoma Haulage; or
- (j) Atrax Commodities (Private) Limited; or
- (k) Exor Enterprises (Private) Limited; or
- (l) Migdale Investments (Private) Limited;
- (m) FSI Trading; or
- (n) Wedzera Investments; or
- (o) any other person permitted by the Minister responsible for energy to import petroleum products,

“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;

“Reserve Bank” means the Reserve Bank of Zimbabwe.

Liability for NOCZIM debt redemption levy

2.(1) With effect from the year of assessment beginning on the 1st January, 2003, every oil company and other person or entity that—

- (a) purchases any petroleum product from NOCZIM, shall deduct from the purchase price it pays to NOCZIM the required NOCZIM debt redemption levy and without delay pay the amount so deducted to the Zimbabwe Revenue Authority; or
- (b) imports any petroleum product shall pay the required NOCZIM debt redemption levy to the Zimbabwe Revenue Authority at the port of entry of the petroleum product.

(2) If required to do so by the Zimbabwe Revenue Authority an oil company or other person or entity referred to in subsection (1) shall supply the Zimbabwe Revenue Authority with such accounts, reports, documents and information as may reasonably be required to ascertain whether or not the oil company, person or entity concerned is complying with subsection (1).

Application of moneys received in terms of this Schedule

3.(1) The Minister responsible for energy, in consultation with the Minister responsible for finance, shall ensure that all moneys received by the Zimbabwe Revenue Authority in terms of this Schedule are deposited in the NOCZIM Debt Redemption Sinking Fund and applied towards the settlement of debts incurred by NOCZIM in the procurement of petroleum products, whether such debts are incurred before or after the 1st January, 2004, and, in so doing, the Minister, in consultation with the Minister responsible for finance, may direct the order and manner in which NOCZIM is to settle its debts.

(2) NOCZIM shall take all necessary steps to comply with any direction referred to in subsection (1).”

PART III

STAMP DUTIES

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

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

With effect from the 1st January, 2004, 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 in paragraph (1) by the deletion of “1 00” and the substitution of “2 00”;
- (b) by the insertion of the following item after item 2—

“Item 2A. OFF-MARKET SHARE TRANSFER INSTRUMENTS

Any off-market share transfer instrument referred to in section 17A of the principal Act 2 00”;

- (c) in item 3 by the deletion of “5 00” and the substitution of “50 00”.

Amendment of Stamp Duties Act [Chapter 23:09]

23 Amendment of Cap. 23:09

With effect from the 1st January, 2004, the Stamp Duties Act [*Chapter 23:09*] is amended—

- (a) by the insertion after section 17 of the following section—

“17A Off-market share transfer instruments

(1) Every person (hereinafter referred to as the “transfer secretary”) who registers the transfer of a marketable security—

- (a) that is a listed security as defined in the Zimbabwe Stock Exchange Act [*Chapter 24:18*]; and
- (b) which is purchased or sold otherwise than through a share market or exchange;

shall transmit to a revenue officer the duty payable in respect of the transfer, together with an instrument (hereinafter referred to as an “off-market share transfer instrument”) specifying the marketable security sold or purchased and the full and true sale or purchase price.

(2) Upon due compliance by a transfer secretary with subsection (1), a revenue officer shall return it, duly stamped, to the transfer secretary.

(3) Notwithstanding any other law to the contrary, no transfer of a marketable security referred to in subsection (1) shall be deemed to have been completed before the date on which the off-market share transfer instrument relating to the transfer is duly stamped.”.

(b) in section 31 by the insertion after subsection (2) of the following subsection—

“(3) If, upon conviction of any person for an offence under subsection (1) or (2), it is proved that that person has been previously convicted under either of those subsections, then such person shall be liable to a fine not exceeding level fourteen, or to imprisonment for a period not exceeding the period provided in subsection (1) or (2), as the case may be, or to both such fine and such imprisonment.”.

PART IV

SALES TAX

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

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

With effect from the 1st January, 2003, the Schedule (“Rates of Sales Tax and Tax on Imports”) to Chapter IV of the Finance Act [*Chapter 23:04*] is amended—

- (a) in Part IIB by the deletion of “fifteen *per centum*” and the substitution of “twenty-five *per centum*”;
- (b) by the repeal of Part IID and the substitution of—

“PART IID

The rate of

- (a) sales tax; and
- (b) tax on imports;

in respect of the motor cars and vehicles specified in the second column below, when classified under the subheadings specified opposite thereto in the first column, shall be fifteen *per centum* and twenty-five *per centum* respectively:

“87 03 Motor cars and other motor vehicles principally designed for the transport of persons, including station wagons and racing cars, but excluding ambulances and hearses”.

Amendment of Sales Tax Act [Chapter 23:08]

25 Amendment of section 4 of Cap. 23:08

With effect from the 1st December, 2002, section 4 (“Sales Tax”) of the Sales Tax Act [*Chapter 23:08*] is amended in subsection (1) by the repeal of paragraph (d) and the substitution of—

“(d) motor vehicles sold by motor dealers or other persons, whether on their own account or on behalf of other persons; and”.

26 Amendment of section 5 of Cap. 23:08

With effect from the 1st December, 2002, section 5 (“Persons liable for tax”) of the Sales Tax Act [*Chapter 23:08*] is amended in subsection (1) by the insertion of the following paragraph after paragraph (b)—

“(b1) in the case of a motor vehicle sold by any person other than a motor dealer—

- (i) where the person is the agent of the seller, by the person on behalf of the seller;
- (ii) where the person is the seller, by the seller.”.

PART V

VALUE ADDED TAX

27 Effective date of amendments under Part V

The amendments to the Schedule to Chapter IV of the Finance Act [*Chapter 23:04*] and the amendments to the Value Added Tax Act [*Chapter 23:12*] made by this Part shall take effect from the date of commencement of the Value Added Tax Act [*Chapter 23:12*].

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

28 New Schedule substituted for Schedule to Chapter IV of Cap. 23:04

The Schedule to Chapter IV of the Finance Act [*Chapter 23:04*] is repealed and the following is substituted—

“SCHEDULE TO CHAPTER IV (Section 29)

RATE OF VALUE ADDED TAX

The rate of value added tax in respect of—

- (a) goods or services supplied by any registered operator in the course or furtherance of any trade carried on by the registered operator; and
- (b) the importation of any goods into Zimbabwe by any person; and
- (c) the supply of any imported services by any person; and
- (d) motor vehicles sold by persons who are not motor dealers, whether on their own account or on behalf of other persons;

shall be fifteen *per centum*.”.

Amendment of Value Added Tax Act [Chapter 23:12]

29 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)—

- (a) in the definition of “commercial rental establishment” by the repeal of paragraph (d);
- (b) by the repeal of the definition of “financial services” and the substitution of—
 - “ “financial services” means—
 - (a) any service provided by a banking institution registered or required to be registered in terms of the Banking Act [*Chapter 24:20*]; or
 - (b) any service provided by a building society registered or required to be registered in terms of the Building Societies Act [*Chapter 24:02*]; or
 - (c) the exchange of banknotes or other currency of any country, except where they are to be used as collectors’ items; or
 - (d) the provision of any deposit, loan or credit, including the provision of any guarantee, indemnity, security or bond in respect of the performance of obligations related to a deposit, loan or credit; or
 - (e) the issue or transfer of ownership of any share in a company or interest in a private business corporation; or
 - (f) services rendered by an insurer registered in terms of the Insurance Act [*Chapter 24:07*]; or
 - (g) the services of an actuary, insurance agent or insurance broker, as defined in the Insurance Act [*Chapter 24:07*], to the extent that those services are rendered to or on behalf of an insurer registered in terms of the Insurance Act [*Chapter 24:07*] or to or on behalf of a pension fund registered in terms of the Pension and Provident Funds Act [*Chapter 24:09*];”
- (c) by the insertion of the following definitions—

““financial lease” means a written agreement for the letting and hiring of capital goods to be used by the purchaser for the purposes of his or her trade, where the seller is—

- (a) a banking institution registered or required to be registered in terms of the Banking Act [*Chapter 24:20*]; or
- (b) a building society registered or required to be registered in terms of the Building Societies Act [*Chapter 24:02*];

“motor dealer” means a registered operator who makes a taxable supply of any motor vehicle in the ordinary course of trade which continuously or regularly supplies motor vehicles, whether such supply is made by way of or solely under an instalment credit agreement or by way of a rental agreement at an economic rental consideration;”.

30 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 insertion after paragraph (c) of the following paragraph—
 - “and
 - (d) motor vehicles sold by persons who are not motor dealers, whether on their own account or on behalf of other persons.”;
- (b) in subsection (2) by the insertion after paragraph (c) of the following paragraph—
 - “(d) paragraph (d) of subsection (1) shall be paid—
 - (i) where the person is the agent of the seller, by the person on behalf of the seller;
 - (ii) where the person is the seller, by the seller.”.

31 Amendment of section 10 of Cap. 23:12

Section 10 (“Zero rating”) of the Value Added Tax Act [*Chapter 23:12*] is amended—

- (a) in subsection (1) by the repeal of paragraph (g) and the substitution of—
 - “(g) the supply is of such goods or services as are prescribed in regulations made in terms of section *seventy-eight*, but subject to such conditions as may be prescribed therein;”.
- (b) in subsection (2) —
 - (i) by the repeal of paragraph (d);
 - (ii) in paragraph (g) by the repeal of subparagraph (ii) and the substitution of—
 - “(ii) goods temporarily admitted into Zimbabwe which are exempt from tax on importation in terms of regulations made in terms of section *seventy-eight*;”;
 - (iii) in paragraph (h) by the repeal of subparagraph (iii) and the substitution of—
 - “(iii) services which are prescribed in regulations made in terms of section *seventy-eight*;”.

32 Amendment of section 11 of Cap. 23:12

Section 11 (“Exempt supplies”) the Value Added Tax Act [*Chapter 23:12*] is amended—

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

“(g) the supply of any educational or training services in respect of pre-school, primary, secondary, university or technical education, including the education or training of physically or mentally handicapped persons, in any institution which is registered under any law administered by the Ministry responsible for education or higher education;

For the purposes of this paragraph “educational or training services” do not include—

- (i) the provision of sporting facilities to persons other than students of any institution which is registered under any law administered by the Ministry responsible for education or higher education;
- (ii) the supply of accommodation to persons other than to students referred to in subparagraph (i);
- (iii) hostel or canteen services supplied to students referred to in subparagraph (i), if such services are provided independently under a contract or other arrangement with an institution referred to in subparagraph (i);
- (iv) hostel or canteen services supplied by an institution referred to in subparagraph (i) to persons other than students referred to in subparagraph (i);
- (v) other services supplied by an institution referred to in subparagraph (i) to persons other than students referred to in subparagraph (i);”;

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

“(j) the supply of such goods or services as are prescribed in regulations made in terms of section *seventy-eight*;”.

33 Amendment of section 12 of Cap. 23:12

Section 12 (“Collection of tax on importation of goods, determination of value thereof and exemptions from tax”) the Value Added Tax Act [*Chapter 23:12*] is amended by the repeal of subsection (3) and the substitution of—

“(3) The importation of such goods as are prescribed in regulations made in terms of section *seventy-eight* shall be exempt from the tax imposed in terms of paragraph (b) of subsection (1) of section *six*.”.

34 Amendment of section 16 of Cap. 23:12

Section 16 (“Permissible deductions in respect of input tax”) of the Value Added Tax Act [*Chapter 23:12*] is amended in subsection (2) by the repeal in paragraph (d) of paragraph (ii) of the proviso thereto and the substitution of—

“(ii) in the ordinary course of his or her trade as a motor dealer.”.

35 New Part inserted in Cap. 23:12

The Value Added Tax Act [*Chapter 23:12*] is amended by the insertion after Part IX of the following Part—

“PART IXA

SPECIAL PROVISIONS APPLICABLE TO SALES OF MOTOR VEHICLES

“56A Tax to be paid before change of ownership of 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 motor vehicle unless there is submitted to the registering officer by the new owner of the motor vehicle a certificate issued by the Controlling Officer stating that the seller of the motor vehicle has paid the tax payable in terms of paragraph (a) or (d) of subsection (1) of section *six* on the sale of the motor vehicle (hereafter in this Part referred to as “value added tax”).

56B Value of motor vehicle on which value-added tax payable

(1) If the Controlling Officer is of the opinion that the sale value of the motor vehicle is less than the fair value of the motor vehicle, he or she may determine the fair value of that motor vehicle, and thereupon the value-added tax shall be calculated in accordance with the fair value as so determined or the sale value, whichever is the greater amount.

(2) In determining the fair value in terms of subsection (1), the Controlling Officer shall have regard to any valuation of the motor vehicle concerned made on behalf of the person liable to pay value-added tax 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 motor vehicle as determined by the Controlling 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 value-added tax;
- (b) does not exceed such sale value, the costs of such valuation shall be borne by the Controlling Officer.

(4) Subsections (2) and (3) shall not apply in respect of the purchase of a motor vehicle sold by public auction, unless the Controlling 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.”.

36 Amendment of section 62 of Cap. 23:12

Section 62 (“Offences”) of the Value Added Tax Act [*Chapter 23:12*] is amended—

- (a) in subsection (1) by the deletion of “a fine not exceeding ten thousand dollars” and the substitution of “a fine not exceeding level seven”;
- (b) in subsection (2) by the repeal of the proviso thereto and the substitution of—

“Provided that no fine imposed in terms of this subsection shall exceed level seven.”;

(c) by the insertion after subsection (2) of the following subsection—

“(3) If, upon conviction of any person for an offence under subsection (1) or (2), it is proved that that person has been previously convicted under either of those subsections, then such person shall be liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.”.

37 Amendment of section 63 of Cap. 23:12

Section 63 (“Offences and penalties in regard to tax evasion”) of the Value Added Tax Act [*Chapter 23:12*] is amended—

(a) in subsection (1) by the deletion of “a fine not exceeding two hundred thousand dollars” and the substitution of “a fine not exceeding level twelve”;

(b) by the insertion after subsection (3) of the following subsection—

“(4) If, upon conviction of any person for an offence under subsection (1), it is proved that that person has been previously convicted under that subsection, then such person shall be liable to a fine not exceeding twice level twelve or to imprisonment for a period not exceeding twenty-four months or to both such fine and such imprisonment.”.

38 Repeal of First Schedule to Cap. 23:12

The First Schedule to the Value Added Tax Act [*Chapter 23:12*] is repealed.

39 Minor amendments to Cap. 23:12

The provisions of the Value Added Tax Act [*Chapter 23:12*] specified in the first column of the Schedule are amended to the extent specified opposite thereto in the second column of the Schedule.

PART VI

ESTATE DUTY

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

With effect from the 1st January, 2004, the Schedule to Chapter VI of the Finance Act [*Chapter 23:04*] is amended—

(a) in paragraph 6B by the insertion after “1st January, 2003,” of “but before the 1st January, 2004,”;

(b) by the insertion after paragraph 6B of the following paragraph—

“6C. In the case of the estate of a person who died on or after the 1st January, 2003, 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 twenty cents;
- (ii) there shall be deducted from the amount of duty so determined—
 - (a) in the case of the estate of a person who died leaving a spouse or any minor child or both a spouse and any minor child, a rebate of twenty million dollars, which rebate shall be reduced by four hundred dollars for every complete one thousand dollars by which the dutiable amount exceeds forty million dollars;
 - (b) in the case of the estate of a person who died leaving no spouse or minor children, a rebate of fifty thousand dollars, which rebate shall be reduced by one hundred dollars for every complete one thousand dollars by which the dutiable amount exceeds two hundred and fifty thousand dollars.”.

PART VII

CAPITAL GAINS TAX

41 Amendment of section 11 of Cap 23:01

With effect from the year of assessment beginning on the 1st January, 2004, section 11 (“Deductions allowed in determination of capital gain”) of the Capital Gains Tax Act [*Chapter 23:06*] is amended in subsection (2) by the deletion in paragraph (c) of “fifty *per centum*” and the substitution of “one hundred *per centum*”.

42 Amendment of section 22A of Cap 23:01

With effect from the year of assessment beginning on the 1st January, 2004, section 22A (“Interpretation in Part IIIA”) of the Capital Gains Tax Act [*Chapter 23:06*] is amended by the repeal of the definition of “depository” and the substitution of—

“ “depository” means—

- (a) a conveyancer, legal practitioner, estate agent or other person who—
 - (i) on behalf of any party to a sale of immovable property, holds the whole or any part of the price paid or payable in respect of the sale; and
 - (ii) is required, on completion of the sale or on transfer of the property, to pay the whole or any part of the amount he or she holds to the seller of the immovable property or to some other person for the seller’s credit;
- or
- (b) a building society registered in terms of the Building Societies Act [*Chapter 24:02*]; or
- (c) the Sheriff or Master of the High Court; or
- (d) a stockbroker, financial institution or other person who—

- (i) on behalf of any party to a sale of a marketable security, holds the whole or any part of the price paid or payable in respect of the sale; and
- (ii) is required, on completion of the sale or on transfer of the marketable security, to pay the whole or any part of the amount he or she holds to the seller of the marketable security or to some other person for the seller's credit;".

43 Amendment of section 32 of Cap 23:01

The provision of the Capital Gains Tax Act [*Chapter 23:06*] inserted by section 39 of the Finance Act, 2002 (Act No. 15 of 2002), is amended by the deletion of the heading "31 Capital gains tax not withheld in terms of Part IIIA to be paid before transfer of specified asset" and the substitution of "30A Capital gains tax not withheld in terms of Part IIIA to be paid before transfer of specified asset".

PART VII

CUSTOMS AND EXCISE

44 New section substituted for section 115 of Cap. 23:02

Section 115 of the Customs and Excise Act [*Chapter 23:02*] is repealed and the following is substituted—

"115 Conversion of foreign currency and payment of duty in foreign currency in certain cases

(1) When the value or cost of any imported goods, or any element that is required to be included in such value or cost, is expressed in the currency of a foreign country, it shall be converted to the currency of Zimbabwe at the selling rate for that foreign currency, as designated by the Commissioner in consultation with the Reserve Bank of Zimbabwe, applicable as a customs rate at the time the goods concerned were entered in terms of this Act:

Provided that where one or more special rates in addition to the general rate at which the Zimbabwe dollar may be exchanged for United States dollar are specified in the Exchange Control (Exchange Rate) Direction, 2002 (Statutory Instrument 223 of 2002) or in any other statutory instrument amending or replacing that Direction, the Minister may, by instruction to the Commissioner published in the *Gazette*, determine that a special rate shall apply in respect of certain goods specified in the instruction.

(2) The Minister may, notwithstanding section 41 of the Reserve Bank Act [*Chapter 22:15*] or anything provided in or under the Exchange Control Act [*Chapter 22:05*], require every person, including a resident of Zimbabwe, who imports any item of goods (hereafter in this section called a "luxury item") designated by the Minister by notice in a statutory instrument to be a luxury item, to pay any duty and value-added tax payable on such item in United States dollars, Euros or any other currency denominated under the Exchange Control (General) Order, 1996 (Statutory Instrument 110 of 1996).

(3) In calculating the duty and value added tax payable on any luxury item, the value for duty purposes and the duty and value-added tax payable shall be calculated in the same way as for goods that are not luxury items, except that the Zimbabwe dollar duty and value-added tax thus arrived at shall be converted at the general rate referred to in the proviso to subsection (1) into United States dollars, Euros or any other currency denominated under the Exchange Control (General) Order, 1996 (Statutory Instrument 110 of 1996):

Provided that where any amount of duty or value-added tax thus payable may require payment to be made in coins, the Commissioner is authorised to increase or reduce the amount to the nearest figure to enable payment to be made in notes only.”.

SCHEDULE (Section 39)

MINOR AMENDMENTS TO VALUE ADDED TAX ACT [CHAPTER 23:12]

<i>Provision</i>	<i>Extent of amendment</i>
Section 6 (2) (b) and (c)	By the deletion of “the tax payable in terms of”.
Section 7 (17)	By the deletion of “subsection (5) of section <i>fifty-six</i> ” and the substitution of “subsection (4) of section <i>fifty-six</i> ”.
Section 15 (3) (g) (ii)	By the deletion of “and” at the end of that subparagraph.
Section 15 (3) (g) (ii) “C”	By the deletion of “and” at the end of the definition of “C”.
Section 17 (1) (ii)	By the deletion of “a deduction of input tax would not have been denied” and the substitution of “a deduction of input tax would have been denied”.
Section 17 (4) (a)	By the deletion of “a deduction of input tax in respect of such goods or services would not have been denied” and the substitution of “a deduction of input tax in respect of such goods or services would have been denied”.
Section 20 (1)	By the insertion after “within thirty days” of “from the date of supply”.
Section 65 (2)	By the deletion of “certificate” wherever it occurs and the substitution of “written statement”.
Section 68 (2) (a)	By the deletion of “avoid” and the substitution of “evade”.

Section 72 (3) (b)	By the deletion of “at the rate or zero <i>per centum</i> ” and the substitution of “at the rate of zero <i>per centum</i> ”.
Section 78 (3)	By the insertion after “section <i>eleven</i> ” of “, are to be dealt with”.
Section 78 (4) (a)	By the deletion of “rent” and the substitution of “rental”.
Section 82 (12)	By the deletion of “subsection (8)” and the substitution of “subsection (9)”.
Section 82 (14) and (15)	By the deletion of “section <i>twenty-five</i> ” and the substitution of “section <i>twenty-three</i> ”.